

DOCUMENT RESUME

ED 127 283

SP 010 319

AUTHOR Wood, R. Craig
TITLE The Current Legal Status of Student Teaching in the United States.
PUB DATE 10 Jul 76
NOTE 68p.
EDRS PRICE MF-\$0.83 HC-\$3.50 Plus Postage.
DESCRIPTORS Cooperating Teachers; Court Litigation; Laws; *Legal Problems; *Legal Responsibility; Preservice Education; *State Legislation; *Student Teachers; *Student Teaching; Teacher Education

ABSTRACT

Presently student teaching is an accepted practice in every school district within the United States; however, the legal status of student teachers, their liabilities, responsibilities, and rights are in many instances poorly described or even nonexistent. An examination is made of current statutory law, case law, attorney general's opinions, and agency rules and regulations regarding the legal status of student teaching in each of the fifty states. The information gathered is presented state by state addressing only what is current without attempting to present historical background. Although little has been written in the last few years on the legal status of student teachers, the recent literature is surveyed. The information is summarized in a chart that gives an overview of the complexity on which the status of student teaching is based. It shows which of the following pertain to each state's student teaching legal guidelines: statutes, attorney general's opinions, case law, no legal guidelines, student teacher certificate issued, guided by administrative rule. As is shown, each state is somewhat unique in its view. Many states have clear statutes; other states have neither statutes, attorney general's opinions, nor case laws to follow. Three states have a system of student teaching certificates clearly providing legal status to student teachers. In those states in which the legal status is not clearly defined, some interesting questions may be raised. It would seem that without statutes, opinions, or case laws, much would have to be decided under common law. In many instances, the student teacher could conceivably stand in a more vulnerable position than the certified teacher. It is recommended that states that have no legal guidelines should move towards enacting statutes that provide legal status for student teachers, that future research should be undertaken to examine the status of undergraduate pre-student teaching programs, and that an examination be made into the possible requirement of an undergraduate law course for student teachers. (MM)

Documents acquired by ERIC include many informal unpublished materials not available from other sources. ERIC makes every effort to obtain the best copy available. Nevertheless, items of marginal reproducibility are often encountered and this affects the quality of the microfiche and hardcopy reproductions ERIC makes available via the ERIC Document Reproduction Service (EDRS). EDRS is not responsible for the quality of the original document. Reproductions supplied by EDRS are the best that can be made from the original.

THE CURRENT LEGAL STATUS
OF STUDENT TEACHING IN
THE UNITED STATES

ED127283

By

R. Craig Wood

Virginia Polytechnic Institute
and State University

July 10, 1976

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

SP010 319

TABLE OF CONTENTS

	Page
Introduction.....	1
Procedure and Limitations of the Study.....	1
Recent Literature.....	2
The Legal Status by States	
Alabama.....	5
Alaska.....	5
Arizona.....	6
Arkansas.....	6
California.....	6
Colorado.....	10
Connecticut.....	11
Delaware.....	11
Florida.....	15
Georgia.....	15
Hawaii.....	15
Idaho.....	15
Illinois.....	16
Indiana.....	19
Iowa.....	19
Kansas.....	23
Kentucky.....	26
Louisiana.....	27
Maine.....	28
Maryland.....	28
Massachusetts.....	28
Michigan.....	28

TABLE OF CONTENTS (Continued)

	Page
Minnesota.....	29
Mississippi.....	32
Missouri.....	33
Montana.....	34
Nebraska.....	35
Nevada.....	35
New Hampshire.....	36
New Jersey.....	36
New Mexico.....	36
New York.....	38
North Carolina.....	39
North Dakota.....	40
Ohio.....	41
Oklahoma.....	41
Oregon.....	42
Pennsylvania.....	42
Rhode Island.....	43
South Carolina.....	43
South Dakota.....	43
Tennessee.....	44
Texas.....	44
Utah.....	45
Vermont.....	46
Virginia.....	46
Washington.....	46
West Virginia.....	48
Wisconsin.....	52

TABLE OF CONTENTS (Continued)

	Page
Wyoming.....	55
Conclusions.....	57
Recommendations.....	58
Selected Bibliography.....	59

Introduction

Historically student teaching was conducted in laboratory schools operated by colleges or universities engaged in teacher education. As society progressed and grew larger student teaching became associated with the public schools. Presently student teaching is an accepted practice in every school district within the United States. Colleges and universities prepare students, and school districts accept them for an intensive period of student teaching, often without legal guidelines by the state. The legal status of student teachers, their liabilities, responsibilities and rights are in many instances poorly described or even non-existent.

Procedure and Limitations of the Study

The writer looked at several sources of guidance in this area. Current statutory law, case law, attorney general's opinions and agency rules and regulations were examined for each state. Case law was mentioned only if it specifically involved a question of the status of the student teacher. These were gathered through personal correspondence and telephone interviews as indicated throughout the paper by citation, and by examining the state codes. In addition an extensive look at recent litigation in all states was undertaken but this revealed scarce information.

There is the possibility the writer has failed to cite a statute, case, opinion or rule and regulation somewhere for a given state. All efforts were made to avoid such an error. Every effort has been made not only to include the appropriate status but, also, an interpretation by the given State Department of Education in order to further understand the appropriate current guideline. Whenever information was used in this regard a citation is given to explain the source.

Each state is self explanatory. The writer has by design avoided any personal observations in this regard. The status of student teaching in each state

is addressed only in terms of what is current. No attempt has been made to present an historical presentation of statutes, case laws, or rules and regulations. The writer acknowledges the criticism that anytime a study of this nature is undertaken it may be out of date very quickly.

Secondary sources as spoken to in the following section were examined only to serve as a guide and as a cross check with what this writer found. Several dissertations in recent years have been written in this area. These were not used as they were of little value for the purpose of this study.

Recent Literature

Very little has been written on the legal status of student teachers in the last few years. Due to the nature of the problem much of what has been written is out of date.

Fred Swalls conducted a study in this area in 1966 entitled Legal Aspects of Student Teaching which is now out of print.^{1/} Dr. Swalls' study spoke only of twelve states. His study was of a limited nature and of course is out of date as many new statutes and developments have taken place in the last ten years. Dr. Swalls has completed a new manuscript scheduled for publication in the late fall entitled The Law and Student Teaching in the United States. In this book Dr. Swalls has expanded his original study. He concentrates on statutory law and case law, in bringing up to date and expanding these areas.^{2/}

Earl Hoffmann's study in 1974 of the legalities of student teaching yielded valuable information to the writer.^{3/} Dr. Hoffmann more recently has been investigating the question of the legal status of teacher aides.

^{1/} Fred Swalls, Legal Aspects of Student Teaching (Danville, Ill., Interstate Printers and Publishers, 1966).

^{2/} Statement by Dr. Swalls, in a telephone interview, June 16, 1976.

^{3/} Earl Hoffmann, "Student Teaching and The Law" Teacher Education: Trends, Issues, Innovations, ed. Lowell & Phyllis Horton (Danville, Ill., Interstate Printers and Publishers, 1974).

The Association of Teacher Educators issued an unpublished manuscript to its members in 1974, entitled Providing Legal Status for Student Teachers.^{4/} This document unfortunately suffers from a lack of footnotes and is already dated.

Mack and Norwood's study entitled The Student Teacher and The Law ^{5/} published in 1973 contains numerous factual errors, is poorly documented, and uses Swalls' thoughts from his 1966 study. This study is of very limited value for any investigation into this field.

The following chart is included for the reader to gather a brief overview of the complexity on which the status of student teaching is based. The reader should carefully examine each state before making any value judgements concerning the quality of the legislation, opinions, cases, certificate procedures, or administrative rules that are followed within each state.

^{4/} Association of Teacher Educators, Compiler, Carl Rose, Providing Legal Status For Student Teachers (Washington, D.C. circa, 1974).

^{5/} Michael G. Mack and Elizabeth P. Norwood, The Student Teacher and the Law, U.S., Educational Resources Information Center, ERIC Document ED 102 165, 1973.

State	Statute(s)	Attorney General's Opinions	Case Law	No Legal Guidelines	Student Teacher Certificates Issued	Guided By Administrative Rule
Alabama				X		
Alaska				X		
Arizona				X		
Arkansas	X					
California	X					X
Colorado	X					
Connecticut	X					
Delaware	X	X				
Florida	X					
Georgia				X		
Hawaii	X*					
Idaho				X		
Illinois	X					
Indiana	X**					
Iowa	X	X				
Kansas	X					X
Kentucky	X	X				
Louisiana				X		
Maine				X		
Maryland	X					
Massachusetts				X		
Michigan						X
Minnesota	X	X				
Mississippi	X					
Missouri	X	X			X	
Montana	X					
Nebraska	X					
Nevada				X***		
New Hampshire				X		
New Jersey	X					
New Mexico						X
New York	X					
North Carolina	X					
North Dakota	X					
Ohio				X		
Oklahoma	X					
Oregon	X					
Pennsylvania						X
Rhode Island					X	
South Carolina				X		
South Dakota				X		
Tennessee	X					
Texas				X		
Utah	X					
Vermont				X		
Virginia				X		
Washington				X		
West Virginia	X	X	X			
Wisconsin	X****					X
Wyoming	X					

*Hawaii - Statute interpreted to include student teacher.

**Indiana - Authorizes student teachers, but does not define legal status

***Nevada - Except to provide insurance

****Wisconsin - Statutes could be interpreted to include student teachers.

Alabama

Alabama has no statutes which address student teaching. Student teaching could possibly fall under Title 52 of the Code of Alabama 1940, as amended, which authorizes local boards of education to establish rules, regulations, and policies concerning the operation of the schools in their district.

Alabama has had "no court cases or attorney general's opinions which apply to the student teacher."6/

Alaska

Alaska has no statutes, court cases or attorney general's opinions regarding the legalities of student teaching. According to the Department of Education Rules and Regulations, a student teacher may ask and receive a letter of authorization from the Commissioner. A student teacher is not required to hold a teaching certificate prior to his/her clinical experience 7/ contrary to the report by Mack and Norwood.8/

This letter of authorization does not give the same legal status to student teachers as for regular certified teachers as reported by the Association of Teacher Educators.9/

The regulation is Number 12.070:

Letter of Authorization. (3) Type III, Student Teacher: This letter of authorization will, in the discretion of the commissioner, be issued to a student teacher when assigned to a public school for the purpose of completing a course in practice teaching. The fee will be waived for student teachers. (Eff. 5/30/71, Reg. 38; am 10/4/73, Reg. 47; am 8/30/75, Reg. 55)

Authority comes from Alaska Statute 14.070.060 and 14.20.020.

6/ Based on correspondence between Erskine S. Murray, Assistant State Superintendent of Education, and the writer, June 18, 1976.

7/ Statement by Kenneth C. Grieser, Deputy Director of Management, Law & Finance of the Department of Education, in a telephone interview, May 14, 1976.

8/ Mack and Norwood, p. 1.

9/ ATE, p. 22.

Arizona

Arizona has no statutes or court cases on the legal status of student teachers. Joe L. Green as Deputy County Attorney of Yuma County, issued an opinion which the Attorney General's Office of the State of Arizona concurred addressing the question of the usage of non-certified assistants. Mr. Green wrote that this is a legal activity "so long as the (certified) teacher is present and supervising the assistant." ^{10/} This opinion however was strictly speaking to the use of employees; the question of student teachers was not specifically asked by Mr. Pete Woodward, Superintendent of Schools, Yuma, to whom the original letter was written.

Arkansas

The legal status of student teachers is given by the following state statute:

80-1262. Student teachers' contracts and immunities - The school board of school districts in this State are hereby authorized to enter into contracts with colleges and universities for the use of student teachers in the public schools. The State Board of Education, by rules and regulations, may approve students authorized by the college to do student teaching. Student teachers in the public schools shall, while engaged in the performance of their student teaching duties, enjoy the same immunities provided by law for teachers in the public schools. (Acts 1973, No. 386, 1, p. ____.)^{11/}

California

California addresses student teaching by the following passages taken from the Education Code.

13160. Student teaching; requirements and limitation on fees - Professional preparation, including student teaching, shall be made available in the upper division course offerings at all California public institutions of higher learning. No more than nine semester units or equivalent units of professional education courses may be designated prerequisites for purposes of admission to student teaching,

^{10/} Attorney General's Opinion, School Opinion No. 63-27-C, R-196, March 14, 1963.

^{11/} The School Laws of Arkansas, 1975.

except that in the case of candidates who elect to satisfy the reading requirement as set forth in subdivision (c) of Section 13130 by an approved program of study rather than by an approved examination may be required to take 12 semester units, or the equivalent, as prerequisites to student teaching.

*** Prior to admission to any professional preparation program approved by the commission, a potential candidate for a credential may obtain a certificate of clearance from the commission which shall be issued when the commission has verified the candidate's personal identification and health status. The fee for the certificate of clearance shall not exceed one-half of the regular fee for a credential and shall be deducted from the fee for the initial credential applied for by the certificate holder. (Amended by Stats. 1975, c. 614, p. ____. 1.)

13162. Paraprofessionals; temporary teacher-assistant certificate - Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher-assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

A certificate to serve as a temporary teacher-assistant shall be issued, by the county superintendent of schools of the county in which service is to be rendered, to the holder of a recommendation from an accredited college, university, or community college. The certificate shall authorize the holder to serve as a teacher-assistant. No such certificate shall be granted for a period exceeding two years.

The teacher-assistant certificate shall not be used in lieu of a teaching credential. The holder of such a certificate shall work under the immediate supervision of a credentialed classroom teacher to whom the teacher-assistant is assigned, who shall be present in the classroom while the teacher-assistant is performing his classroom duties or who shall be available at all times to provide guidance and direction to the teacher-assistant. (Amended by Stats. 1975, c. 1249, p. _____, 1.)

Asterisks * * * indicate deletions by amendment.

13160.1. Student internship programs - Student internship programs shall be joint projects of school districts and teacher preparation institutions, and such internship programs shall be submitted to the commission for approval. Approved internship programs shall be subject to periodic review by the commission.

Upon completion of an approved internship program, with district and teacher preparation institution certification, the commission shall approve the teacher intern. (Added by Stats, 1970, C. 557, p. 1095, 3.)

13171.1. Issuance of credentials; prior law fulfillment; time limit; exceptions - (a) The commission shall issue the appropriate credentials authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971, to any person who completed the requirements for such credential prior to September 15, 1974.

(b) A person may be issued a credential under this section after September 15, 1974, if that person, between December 31, 1971, and September 15, 1974:

(1) Was engaged in teaching in a foreign country, after such person had completed the requirements of such credential.

(2) Holds a credential issued under partial fulfillment and was working towards meeting the requirements of that credential and was enrolled in a teacher training institution.

(3) Was working towards meeting the requirements of such credential and was prevented from completing those requirements because of active military service, illness, or other causes determined by the commission.

(4) Was accepted into and enrolled in a teacher education curriculum at any institution and would be required to take more than 15 semester-hour units or the equivalent quarter-hour units after September 15, 1974, beyond the requirements necessary to receive such credential, in order to meet the requirements of credentials issued under this chapter.

(5) Was enrolled in a student-declared degree program at an accredited institution leading to such credential with at least a junior standing as determined by the institution and would be required to take more than 15 semester-hour units or the equivalent quarter-hour units after September 15, 1974, beyond the requirements necessary to receive such credential, in order to meet the requirements of credentials issued under this chapter.

(c) No credential authorized under this law and rules and regulations in effect on December 31, 1971, shall be issued to any person pursuant to the exceptions specified in paragraphs (1) to (5), inclusive, of subdivision (b) after September 15, 1976.

(d) For the purposes of this section, "teacher education curriculum" means any professional education course or sequence of professional education courses required for a credential authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971.

(e) For the purposes of this section, "student-declared degree program" means any student-elected degree objective at an approved institution selected for the purpose of obtaining a credential authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971. (Added by Stats. 1970, c. 557, p. 1099, 3. Amended by Stats. 1971, c. 1465, p. 2892, 12.6; Stats. 1974, c. 948, p. ____, 6, urgency, eff. Sept. 19, 1974.)

Historical Note - The 1974 amendment rewrote the section which previously read:

"The commission shall issue the appropriate credentials authorized by the law operative, and the rules and regulations of the commission in effect on December 31, 1971, to any person who, on July 1, 1972, has completed two years of college and on July 1, 1972, was either enrolled in a teacher education curriculum at any institution of higher learning approved by the commission, or was engaged in teaching in a foreign country, after such person has completed the requirements for such credential and if the person is otherwise qualified for such credential under the law and rules and regulations. No credential shall be issued under this section after September 15, 1974. However, no person shall be denied the issuance of a prior credential if he holds a provisional credential on July 1, 1972, and is working toward meeting the requirements of that prior credential in accordance with commission regulations; nor shall any person who, on July 1, 1972, is working toward meeting the requirements of a prior

credential and on that date is enrolled in a teacher education program, be denied the issuance of a prior credential if because of active military service since September 15, 1970, he was prevented from meeting the educational requirements of a prior credential."

Sections 7 and 8 of Stats. 1974, c. 948, p. ____, provide:

"Sec. 7. The Legislature finds that the Commission for Teacher Preparation and Licensing established a procedure for listing the names of persons who were enrolled in standard credential programs and who could reasonably be expected to complete such programs by September 15, 1974, for the purpose of issuing credentials authorized by the laws operative, and the rules and regulations in effect on December 31, 1971, to such persons who, for reasons beyond their control, could not complete the requirements for such credential until after September 15, 1974. Such persons whose names appear on such list shall be deemed to meet the conditions prescribed for the issuance of credentials by paragraphs (1) to (5), inclusive, of subdivision (b) of Section 13171.1 of the Education Code.

"Sec. 8. It is the intent of the Legislature that the Commission on Teacher Preparation and Licensing shall liberally construe subdivision (b) of Section 13171.1 of the Education Code to assist qualified persons to obtain appropriate credentials and to permit approved institutions to use course equivalents to assist qualified persons to obtain appropriate credentials to the end that no person shall be adversely affected by the provisions of Chapter 2.

California has no statutes which give student teachers status "as such."

Thomas M. Griffin, Chief Counsel for the California Department of Education is of the opinion that the student teacher would probably be considered an employee of the school board in terms of possible workmen's compensation.^{12/} This is of course complicated by the fact there is no wage loss involved. In the area of tort liability, the student teacher is considered to be an employee of the school board. In the final analysis student teaching in many instances rests on common law.^{13/}

^{12/} See also State Compensation Insurance Fund v. Industrial Accident Commission of California 22 CCC 212, 1957.

^{13/} Based on telephone interview, June 14, 1976.

Colorado

In 1973 Colorado enacted the Cooperative Teacher Education Act. This Act defines the legal status of student teaching. The student teacher is defined as an employee of the school district and he/she will receive the same workmen's compensation and liability insurance provided for other district employees. The Act also provides for the possibility of financial payment for student teaching.

The act is as follows:

22-62-102. Legislative declaration. The general assembly hereby declares that the purpose of this article is to implement cooperative ventures in teacher education between public and private schools and institutions of higher education, to establish the legal status of students of teaching, and to enable the release of public moneys to finance such ventures.

22-62-103. Authority to enter into agreements. (1) The board of education of each school district is authorized to enter into written, contractual agreements or arrangements with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution regardless of the title of his position.

(2) Each such agreement or arrangement shall set out the rights and responsibilities of the cooperating school districts, teacher preparation institutions, students, and other participating personnel.

22-62-104. Payment of cost from public funds. (1) The respective governing boards of state colleges and universities are authorized to pay the contracting boards of education for the services of public school personnel in an amount not to exceed seventy-five dollars per full-time student teacher per academic quarter, or an amount equivalent thereto.

(2) Each school district may, by mutual consent of the parties to the agreement, provide compensation to students of teaching.

22-62-105. Authority and status of students of teaching. (1) Any student of teaching, during the time that such student is assigned to a field experience within a public school, shall be deemed to be a public employee of the school district within the meaning of the "Colorado Governmental Immunity Act." The duties and responsibilities of the student of teaching shall be determined by mutual agreement between the school district and the authorized representative of the college.

(2) The student of teaching, during his field experience, shall be deemed an employee of the school district pursuant to the provisions of section 8-41-106, C.R.S. 1973, for the purpose of workmen's compensation and liability insurance as provided for other district employees. 18/

Connecticut

Connecticut general statutes addressing student teaching protection and liability are as follows:

Sec. 10-235. Protection of teachers, employees and board and commission members in damage suits. Each board of education shall protect and save harmless any member of such board or any teacher or other employee thereof or any member of its supervisory or administrative staff, and the state board of education, the commission for higher education, the board of trustees of each state institution and each state agency which employs any teacher, and the managing board of any public school, as defined in section 10-161, shall protect and save harmless any member of such board or commission, or any teacher or other employee thereof or any member of its supervisory or administrative staff employed by it, from financial loss and expense, including legal fees and costs if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to or death of any person, or in accidental damage to or destruction of property, within or without the school building, provided such teacher, member or employee, at the time of the accident resulting in such injury, damage or destruction was acting in the discharge of his duties within the scope of his employment or under the direction of such board of education, the commission for higher education, board of trustees, state agency, department or managing board. For the purposes of this section, the term "teacher" shall include any student teacher doing practice teaching under the direction of a teacher employed by a town board of education or by the state board of education or commission for higher education.

Sec. 10-236. Liability insurance. Each such board of education, board of trustees, state agency or managing board may insure against the liability imposed upon it by section 10-235 in any insurance company organized in this state or in any insurance company of another state authorized by law to write such insurance in this state, or may elect to act as self-insurer of such liability.

No litigation involving student teachers has arisen from these two statutes.^{15/}

Delaware

In Delaware student teachers may serve as substitute teachers and may be paid in that capacity.

Delaware Code, Title 14, 1230:

1230. Substitute teachers. The State Board of Education shall make rules and regulations relative to the certification of substitute teachers and such rules and regulations shall include at least three classifications for substitutes as follows:

^{15/} Statement by Jack Muraskin, Legal Consultant to the State Department of Education, in a telephone interview May 14, 1976.

Class A - A Class A certificate may be issued to an applicant who holds a valid Delaware teacher's certificate or such a certificate that has expired. In the case of a certificate that has expired, the applicant for the substitute certificate shall not be required to present refresher courses for issuance of the substitute's certificate.

Class B - A Class B certificate may be issued to an applicant with or without a Bachelor's degree who meets at least the requirements for temporary emergency certificate as set forth in section 1313 and section 1315 of this Title.

Class C - A Class C certificate may be issued to an applicant who is not eligible for either Class A or Class B certification but who is recommended to the State Superintendent of Public Instruction by the chief school officer of a Delaware school district.

The Delaware State Department of Public Instruction issues the following substitute teachers Certificate. (Note: a student teacher could have a class "C" certificate.

Permits - Substitute Teachers. Eligibility for certification is now set at four levels of educational background which allow for flexibility in recruitment and assignment.

Certificates shall be issued according to four categories:

Class A - A Class A certificate may be issued to an applicant who holds or is eligible to hold a valid Standard Delaware teacher's certificate or such a certificate that has expired. In the case of a certificate that has expired, the applicant for the substitute certificate shall not be required to present refresher courses for issuance of the substitute's certificate.

Class B - A Class B certificate may be issued to an applicant with or without a Bachelor's degree who meets at least the requirements for a temporary emergency certificate as set forth in Types of Certificates - Section E.

Class C - A Class C certificate may be issued to an applicant who is not eligible for either Class A or Class B certification but who is recommended to the State Superintendent of Public Instruction by the chief school officer of a Delaware Public School District.

A student currently enrolled in a four-year degree granting institution who desires to serve as a substitute teacher may be employed as a Class "C" substitute without the formality of submitting a transcript or health certificate. (State Board of Education November 12, 1970)

Class D - A Class D certificate may be issued to an applicant who is eligible for or holds a Class A, B, or C certificate, but who prefers on a given date to perform substitute teaching assignments as a volunteer worker, or at a wage rate to be determined by the Board of Education of the employing school district.

Note: Your attention is called to the fact that there must be local board action to implement this classification (Class I Substitute - Approved by the State Board of Education, December 16, 1971 in compliance with Delaware Code 14, Section 1230)

An attorney general's opinion dated October 19, 1972 from Richard S.

Gebelein, Deputy Attorney General, in response to two questions from Dr. Kenneth C. Madden, the State Superintendent, classifies the entire situation.

In its entirety the opinion is as follows:

Opinion To: Dr. Kenneth C. Madden, State Superintendent, Department of Public Instruction, Dover, Delaware 19901

Opinion By: Richard S. Gebelein, Deputy Attorney General

- Questions:
1. Is adequate pupil supervision provided in a school when the only supervision is furnished by a uncertified student teacher?
 2. Can student teachers be used as substitutes if for one reason or another, including an emergency, the regular teacher, i.e., the teacher to whom the student teacher is assigned for training, is absent? If the opinion is positive; can the student teacher be paid for the service?

Request No. S-296

- Answer:
1. Yes, assuming that it was not the plan of the local board to use student teachers on a regular basis instead of certified teachers.
 2. Yes, under certain conditions, student teachers may be used as substitute teachers and may be paid for such services if the State Board so provides.

In response to your questions, it should be noted that the State of Delaware has over the years supported a student teaching program although that program has not been governed by the rules and regulations of the State Board of Education. Teacher training is a prerequisite for seniors in the University Department of Education and for other students who take courses to prepare them for teaching. We also understand that students in the junior classes of the Department of Education are required to obtain teaching experience such as teaching a single pupil or several pupils at the schools and for this purpose attend morning sessions conducted at the schools by their college professors. To a limited extent, sophomores in the Department of Education are also afforded teaching experience at the schools. The arrangements are made between the appropriate authorities in the colleges and the Reorganized School Districts. The arrangement for the training of the students has or should have the approval of the Reorganized School District superintendent, who is the Chief Officer of the District.

With respect to your first question, it should be noted that in general the local school board has an obligation to provide a "... sufficient number of competent instructors or other persons properly to supervise school premises during school hours. . . ." 160 A.L.R. 145, 148. If this obligation is fulfilled, then no liability should attach to the school board for the negligence of one of its employees. The question which then arises is whether or not a student teacher is either a "competent instructor" or an "other person" capable of properly supervising school premises.

While it is probably doubtful that a student teacher would be a "competent instructor" in the same sense as a certified teacher, it is clear that a student teacher would be capable of properly supervising the school premises. This is, of course, the only question which we must consider with respect to liability for torts or negligence on the part of a student teacher left in charge of a classroom. If a study hall monitor, or cafeteria worker, is sufficient to supervise pupils in their areas of the school facilities, then a student teacher with the additional training he possesses should be able to supervise a classroom of students.

It should be noted, however, that we are speaking only of the situation where a student teacher is left for a period of time by the regular teacher assigned to that class. It would not be proper for the local district to place a student teacher in charge of a classroom indefinitely or for a long period of time, such as a week or more. This would be in conflict with the obligation of the Board to provide properly for the education of the children. It would not, however, necessarily affect the liability of the Board with respect to torts.

In response to your second question, it should be noted that the State Board of Education has the responsibility for regulating substitute teachers. 14 Del. C. 1230. It is clear under the statute that the Board of Education can create classes or classifications of Substitute Teachers. The State Board could adopt a resolution setting up a new class of substitute teachers which class could be limited to student teachers and could be subject to the regulations imposed upon that class by the Board. The Board, for example, could require that this new class of substitutes could only serve in place of the certified teacher to whom the student was assigned. The Board could also determine what compensation, if any, the student substitute teacher would be entitled to. This could be set out by resolution of the State Board.

It is possible that a student teacher could be certified as either a class "C" or class "D" substitute teacher if so qualified. If that were to be done, the student could be compensated and employed subject to the standards of the class in which he was certified.

The better course to follow would probably be the creation of a student teacher class where the Board could retain more control over the activities and responsibilities of the student teacher.16/

16/ Attorney General's Opinion, Request No. S-296, October 19, 1972.

Florida

Florida gives to student teachers, serving in a supervised internship, the same legal protection as that of certified teachers.

Section 228.041(9) of the Florida Statutes is as follows:

(9) Instructional Personnel - "Instructional personnel" shall mean any member of the instructional staff as defined by regulations of the state board and shall be used synonymously with the word "teacher" and shall include teachers, librarians, and others engaged in an instructional capacity in the schools. A student who is enrolled in an institution of higher education approved by the state board for teacher training and who is jointly assigned by such institution of higher education and a school board to perform practice teaching under the direction of a regularly employed and certificated teacher shall be accorded the same protection of the laws as that accorded the certificated teacher while serving such supervised internship, except for the right to bargain collectively with employees of the school board.

Georgia

Georgia has no statutes that deal with student teachers. No attorney general's opinion or case law exist to date. Dr. Joe Edwards', Deputy State Superintendent of Schools, interpretation of Georgia school laws "would indicate the supervising teacher would, at all times, be responsible for the students under his or her supervision.17/

Hawaii

Hawaii has no statutes which speak to the legal status of student teachers. Student teachers are included however in the Hawaii Revised Statute on Teacher Certification. In addition, the State Tort Liability Act covers student teachers in the public schools.18/

Idaho

Idaho has no specific statutes that provide for the legal status of student teachers. They are treated the same as certified teachers for the purpose of workmen's compensation and liability coverage.

17/ Based on personal correspondence between Joe Edwards, Deputy State Superintendent of Schools, and the writer, April 20, 1976.

18/ Based on correspondence between Winona L. Chang, Staff Specialist, Personnel Certification and Development and the writer, April 20, 1976.

Illinois

Illinois statutes concerning student teaching are as follows:

10-20.20 10-20.20. Protection from suit. To indemnify and protect school districts, members of school boards, employees, and student teachers against civil rights damage claims and suits, constitutional rights damage claims and suits and death and bodily injury and property damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of employment or under the direction of the board. Such indemnification and protection shall extend to persons who were members of school boards, employees of school boards or student teachers at the time of the incident from which a claim arises is that incident occurred on or after September 5, 1961. No agent may be afforded indemnification as protection unless he was a member of a school board, an employee of a board or a student teacher at the time of the incident from which the claim arises.

10-22.3 10-22.3. Liability insurance for school board members, school board employees and student teachers. To insure against any loss or liability of the school district, members of school boards, employees and student teachers by reason of civil rights damage claims and suits, constitutional rights damage claims and suits and death and bodily injury and property damage claims and suits, including defense thereof, when damages are sought for negligent or wrongful acts allegedly committed during the scope of employment or under the direction of the school board. Such insurance shall be carried in a company licensed to write such coverage in this State.

10-22.34 10-22.34. Non-certificated personnel. School Boards may employ non-teaching personnel or utilize volunteer personnel for non-teaching duties not requiring instructional judgment or evaluation of pupils.

School Boards may further utilize volunteer non-certificated personnel or employ non-certificated personnel to assist in the instruction of pupils under the immediate supervision of a teacher, holding a valid certificate, directly engaged in teaching subject matter or conducting activities. The teacher shall be continuously aware of the non-certificated persons' activities and shall be able to control or modify them. The Superintendent of Public Instruction, in consultation with the State Teacher Certification Board, shall determine qualifications of such personnel and shall prescribe rules for determining the duties and activities to be assigned to such personnel.

School Boards may also employ students holding a bachelor's degree from a recognized institution of higher learning as part time teaching interns when such students are enrolled in a college or university internship program, which has prior approval by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board, leading to a masters degree.

Nothing in this Section shall require constant supervision of a student teacher enrolled in a student teaching course at a college or university, provided such activity has the prior approval of the representative of the higher education institution and teaching plans have previously

been discussed with an approved by the supervising teacher and further provided that such teaching is within guidelines established by the Superintendent of Public Instruction.

10-22.37. Agreements with Teacher Training Institutions.

10-22.37. Agreements with Teacher Training Institutions. To enter into agreements with teacher training institutions to provide facilities for student teaching in the schools of the district.

21-2. 21-2. Grades of certificates. All certificates issued under this Article shall be State certificates valid, except as limited in Section 21 - 1, in every school district coming under the provisions of this Act and shall be limited in time and designated as follows: Provisional vocational certificate, provisional foreign language certificate, early childhood certificate, elementary school certificate, special certificate, high school certificate, elementary supervisory certificate, all-grade supervisory certificate, administrative certificate, junior college certificate, provisional certificate, temporary certificate for teachers of trainable mentally handicapped and substitute certificate. (The requirement of student teaching under close and competent supervision for obtaining a teaching certificate may be waived by the State Teacher Certification Board upon presentation to the Board by the teacher of evidence of 5 years successful teaching experience on a valid certificate prior to July 1, 1975 and graduation from a recognized institution of higher learning with a bachelor's degree with not less than 120 semester hours and a minimum of 16 semester hours in professional education.)

21-3. 21-3. Elementary certificate. An elementary school certificate shall be valid for 4 years for teaching in the kindergarten and lower 9 grades of the common schools. It shall be issued to persons who have graduated from a recognized institution of higher learning with a bachelor's degree and with not fewer than 120 semester hours and with a minimum of 16 semester hours in professional education, including 5 semester hours in student teaching under competent and close supervision. The academic and professional courses offered as a basis of the elementary school certificate shall be courses approved by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board.

21-4. 21-4. (Special certificate.) A special certificate shall be valid for 4 years for teaching and the special subjects named therein in all grades of the common schools. It shall be issued to persons who have graduated from a recognized institution of higher learning with a bachelor's degree and with not fewer than 120 semester hours including a minimum of 16 semester hours in professional education, 5 of which shall be in student teaching under competent and close supervision. When the holder of such certificate has earned a master's degree, including eight semester hours of graduate professional education from a recognized institution of higher learning and with two years' teaching experience, it may be endorsed for supervision.

A special certificate for teaching elective subjects in grades 11 and 12 of the common schools shall be issued to persons who have graduated from a recognized institution of higher learning with a bachelor's degree and with not fewer than 120 semester hours and with at least a major and minor from separate subject fields. Such certificate shall entitle the

holder to teach not more than 10 hours per week in elective subjects provided the county superintendent of schools having supervision and control over the district certifies that no regularly certified teacher is available.

The extent of preparation shall vary according to the subject and the minimum amount of preparation in each subject or subject field shall be determined by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board.

21-5. 21-5. High school certificate. A high school certificate shall be valid for 4 years for teaching in grades 6 to 12 inclusive of the common schools. It shall be issued to persons who have graduated from a recognized institution of higher learning with a bachelor's degree and with not fewer than 120 semester hours including 16 semester hours in professional education 5 of which shall be in student teaching under competent and close supervision and with one or more teaching fields. The academic and professional courses offered as a basis for the high school certificate shall be approved by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board.

21-21. 21-21. Definitions - Granting of Recognition. "Recognized", as used in this Article in connection with the word "school" or "institution", means such school, college, or university, junior college, or special or technical school as maintains an equipment, course of study, a standard of scholarship and other requirements set by the Superintendent of Public Instruction in consultation with the State Teacher Certification Board. Application for recognition of such school or institution as a teacher training institution shall be made to the Superintendent of Public Instruction. The Superintendent of Public Instruction in consultation with the State Teacher Certification Board shall set the criteria by which the school or institution shall be judged and through the Secretary of the Board shall arrange for an official inspection and shall grant recognition of such school or institution as may meet the required standards. No school or institution shall make assignments of student teachers or teachers for practice teaching so as to promote segregation on the basis of race, creed, color, religion or national origin.

All courses listed or credentials required as the basis of any certificate or for its renewal shall be the equivalent of courses offered by a recognized teacher training institution. The Superintendent of Public Instruction in consultation with the State Teacher Certification Board shall have the power to define a major or minor when used as a basis for recognition and certification purposes.

In addition to these statutes, if a student teacher is considered to be an agent then the following statute might apply.

Section 34-13.1. Protection from Suit. The board of education shall insure any member of the board or any agent, employee, teacher, officer or member of the supervisory staff of the school district against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit, or judgment by reason of alleged negligence or alleged wrongful act resulting in death or bodily injury to any person or accidental damage to or destruction of property, within or without the

school premises, provided such board member, agent, employee, teacher, officer or member of the supervisory staff, at the time of the occurrence resulting in such death, bodily injury, or damage to or destruction of property was acting under the direction of the board within the course or scope of his duties.^{19/}

Illinois has no case law or attorney general's opinions concerning the legal status of student teachers.

Indiana

Indiana statute speaks to student teaching in only the following manner:

20-5-10-1 (28-4406). School corporation agreements with accredited institutions of higher education - Student teaching experience - Public school corporations are authorized to enter into agreements with institutions of higher education accredited by the training and licensing commission of Indiana, for the purpose of providing teaching experience for students thereof preparing for the educational profession and for the services of persons working jointly for any such school corporation and any such institution. (Acts 1969, ch. 246 1, p. 972.)

Title of Act. The title of Acts 1969, ch. 246 reads: "An act concerning student teachers and other persons jointly assigned to a school corporation by an accredited educational institution and the school corporation." In force August 18, 1969.

Cross-References. Laboratory schools of state universities, 20-12-13-1--20-12-13-5.

Teacher training courses offered by accredited schools, 20-6-1-5.^{20/}

Iowa

Iowa has the following statutes concerning student teachers:

260.27. Student teachers' certificates. Whenever the conditions prescribed by the board of educational examiners for issuance of any type or class of certificate provide that the applicant shall have completed work in student teaching it shall be lawful for any accredited college or university located within the state of Iowa and states conterminous with Iowa and offering a program or programs of teacher education approved by said board of educational examiners of Iowa or states conterminous with Iowa to enter into a written contract with any approved school district or private school, under such terms and conditions as may be agreed upon by such contracting parties. Students actually engaged under the terms of such contract, shall be entitled to the same protection, under the provisions of section 613A.8, as is

^{19/} Illinois School Code

^{20/} Burns Indiana Statutes, Annotated/Code Edition, 1975.

afforded by said section to officers and employees of the school district, during the time they are so assigned. (C71, 73, 260.27)

262.30. Contracts for training teachers. The board of directors of any school district in the state of Iowa may enter into contract with the state board of regents for furnishing instruction to pupils of such school district, and for training teachers for the schools of the state in such particular lines of demonstration and instruction as are deemed necessary for the efficiency of the University of Northern Iowa, state University of Iowa, and Iowa State University of science and technology as training schools for teachers. (C24, 27, 31, 35, 39, 3942; C46, 50, 54, 58, 62, 66, 71, 73, 262.30)^{21/}

Iowa also clarifies the legal status of student teaching by two attorney generals' opinions.

In 1936 Miss Agnes Samuelson, President of the Board of Educational Examiners asked the Iowa Department of Justice for its opinion on the following:

Miss Samuelson's letter:

"Chapter 193 of the code authorizes the State Board of Educational Examiners to issue teachers' certificates pursuant to provision of that chapter. One of the requirements of the board is that the teacher's training must have included a course in directed observation and supervised student teaching. In order that their graduates may have this supervised student teaching, a number of the colleges in the state enter into arrangements with the public schools whereby these students assist in teaching of the pupils in the public schools and are supervised by the regular public school teachers of the particular rooms in which the student is assisting. It often happens that after the regular contract of the teacher has been entered into, that practice teaching is done under that teacher and the board enters into arrangements whereby additional compensation is to be paid to the teacher for her additional work in working with the supervisor of the students, and with the students themselves in their practice teaching and this often requires a great deal of additional time of the regular school teacher as individual conferences are necessary with the college, the supervisor and the student teachers. These student teachers pay their fees directly to the college of which they are students and the colleges then pay the public schools for the services rendered, that is, for furnishing a place for supervised student teachers, and out of this sum is paid the additional compensation to the regular public school teachers.

"Would you please advise us whether this practice is legal under the laws of this state and whether the school boards are authorized to pay their teachers an additional sum for this additional work?"

^{21/} Code of Iowa, 1975.

Lehan T. Ryan The Assistant Attorney General issued the following opinion:

This question received the consideration of our Supreme Court in the case of CLAY v INDEPENDENT SCHOOL DISTRICT OF CEDAR FALLS, 187 Iowa, 89, decided in 1919. In that case, an action in equity for an injunction and for a writ of mandamus was asked against the defendant, Independent School District of Cedar Falls. It appears that the officers of Iowa State Teachers College and the district entered into an agreement whereby certain of the advance students of the college went into the public schools and received supervised student teaching and the plaintiffs who were residents and taxpayers of the district challenged the regularity and legality of such arrangement and our Supreme Court there, after going thoroughly into the proposition, held that the school board of the Independent District did have the right to make such arrangement and that such arrangement was legal and was not unauthorized use of the school building and funds.

Turning then to the question of compensation, the court pointed out in the Clay case that the teacher was paid partly from the funds of the district and partly from funds of the college and in regard to the legality of such arrangement, the court said at page 106:

"So far as we may discover from the entire record, there has been no fraud or corruption on the part of the board of directors or any member thereof, nor, indeed, is there any charge of such wrong. The funds of the district have not been misappropriated or diverted from their proper uses. Neither the school district in general nor the plaintiffs in particular have been deprived of anything to which they are entitled."

Preceding this statement, the court said at page 104:

"We are unable to see why a teacher may not lawfully divide her time and labor between two schools, and receive compensation from both, where both employers consent, and payment is equitably proportioned to each. If these schools were rivals, and service rendered to one involved any disloyalty to the other, there might be room for objection; but there is no showing that the district has paid these teachers, or any of them, any more than their stipulated wages for the time actually employed, or that the teachers have failed to return the full equivalent therefor in honest service."

So, if the college could pay the teachers directly, there is no reason why they could not pay them indirectly by paying a certain amount to the school district and the district in turn pay the teachers for this additional service. As we understand, the agreement with the teacher in regard to compensation is entered into prior to the time the services are rendered, that is, after the teachers' contracts have been entered into, some of the teachers are chosen to supervise the student teaching, and for this additional work, the school board agrees to pay them an additional amount of money over and above that originally stipulated in their contract, and this, of course, is legal, but it would not be legal if the services were rendered and then at the end of the period, the school district voted to give to the teachers a gratuity or some reward for additional work, for

public officers and employees are not so entitled to gratuities for work already performed, but are entitled to arrange as to their compensation prior to the time the services are rendered.

We believe that this fully and completely answers your inquiry and you will note that our opinion is that the arrangement that you have outlined is legal and that the teachers are entitled to the additional compensation.^{22/}

In 1972, Willard R. Hansen, State Representative asked for a clarification of Iowa State Statute 260.27 by the Attorney General's Office. Ms. Elizabeth Nolan's reply is follows:

According to your letter this provision of the code has raised questions among educators. Such questions include:

1. What authority do student teachers have during the time they are fulfilling the student teaching requirement?
2. Are student teachers liable for injury to a pupil under their supervision in the absence of the public school classroom supervising teacher?
3. Student teachers are not paid while student teaching; therefore, would they be protected by liability insurance provided for the salaried employees in the school district to which they are assigned?

In answer to these questions we advise:

1. Ordinarily, student teachers are only given an opportunity to prepare and present classroom instruction the presence of and under the direct supervision of a classroom teacher. The supervising teacher may give the student teacher increasing responsibilities in the classroom, but the supervising teacher at all times has a duty to exercise proper supervision over the pupils in his charge and use reasonable care to prevent injury to them.

2. The mere fact that an accident happens in which a pupil is injured does not render the teacher liable where the teacher was not negligent or his conduct was not the proximate cause of the injury. 78 C.J.S. Schools and School Districts, 238C.

Chapter 613A provides that every municipality is subject to liability for its torts and those of its officers, employees and agents acting within the scope of their employment (613A.2). Under 613A.8 the governing body is required to defend "any of its officers and employees....except in cases of malfeasance in office or willful or wanton neglect of duty."

3. A student teacher is, except as provided by statute (260.27) still a student. However, by contract as provided in the code a student teacher becomes an agent of the school district while fulfilling this practice-teaching requirement. Under 613A.7 the governing body of the school district may purchase a policy of liability insurance "insuring against all or any part of liability which might be incurred by such municipality or its officers, employees and agents under the provisions

^{22/} Attorney General's opinion, June 5, 1936.

of section 613A.2 and may similarly purchase insurance covering torts specified in section 613A.4." (Emphasized) Accordingly, the fact that student teachers are not paid employees of the district would not necessarily determine the liability of the district. Student teachers, as agents, are eligible for the protection afforded by liability coverage unless the provisions of the insurance contract contain an exclusion applicable to them.23/

Kansas

Kansas has no case law or Attorney Generals' opinions concerning student teaching.

Kansas Statutes Annotated contains the following statute:

72-1392. Student teaching certificates, contracts for student teachers; cost. The board of education of any school district may enter into contracts with colleges and universities for the use of student teachers in the public schools. The state board of education, by rules and regulations, shall provide for the issuance of student teaching certificates and may authorize persons holding such student teaching certificates to assume responsibilities of teachers in schools within limitations prescribed by the state board. Student teaching certificates shall be issued without the charge of any fee or cost by the state board of education.

Kansas Administrative Regulations are as follows:

91-19-1. Definitions. (a) The term "student teacher" means any student certificated by any teacher education institution to assume teaching responsibilities in accredited Kansas schools under cooperating teachers.

(b) The term "cooperating teacher" means any regular and certificated staff member of a local school to whom a student teacher has been assigned, and who is performing assigned duties and professional activities in supervising and instructing such student teacher in actual teaching experiences with pupils.

(c) The term "teacher education institution" means any college or university whose teacher education program is accredited or recognized by the Kansas state board of education. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-2. By and to whom student teacher certificates issued. Student teacher certificates shall be issued only by the teacher education institutions, as herein defined, to student who have complied with the regulations, fulfilled the requirements and received the recommendations of officials responsible for teacher education, of such institutions. (Authorized by K.S.A. 1970 Supp. 72-1392; effective E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-3. Form and make-up of certificates. Student teacher certificate forms shall be furnished by the Kansas state department of education and supplied to teacher education institutions upon request. Such certificates shall be produced in triplicate on NCR paper size 8½" X 11". The sheets shall be perforated to allow two (2) certificates of equal size to each sheet. The originals shall be white, the duplicates pink, and the triplicates blue. Upon their completion, the originals shall be presented to student teachers to be delivered by them to principals or other designated officials of the cooperating schools, the duplicates shall be returned to the state department of education, and the triplicates shall remain with the teacher education institutions. The originals shall be returned to student teachers upon the completion of their teaching assignment. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-4. Student teacher must be certificated. Persons may not act as student teachers in the schools of Kansas without valid student teacher certificates. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-5. Assignment of student teachers, by whom. Only teacher education institutions shall assign student teachers to cooperating schools for the purpose of student teaching. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-6. Necessity for written contracts. Persons certified for student teaching shall do such teaching only in schools or districts that are accredited by the Kansas State Board of Education and have written contracts with teacher education institutions. Such contracts shall set out all of the arrangements made between the teacher education institutions and the cooperating schools and shall constitute the entire agreement between them. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-7. Compensation prohibited. No compensation shall be paid student teachers performing assignments under contracts as provided in section 6. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-8. Contracts to comply with regulations. Terms of contracts between the teacher education institutions and the cooperating schools shall comply with these rules and regulations. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-9. Out-of-state institutions; adherence to regulations. Out-of-state teacher education institutions interested in sending student teachers to Kansas schools must adhere to these rules and regulations. Such institutions shall request the proper forms and issue student teacher certificates. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-10. Student teachers prohibited serving as regular or substitute teachers. Certificated student teachers are prohibited

from serving as regular or substitute teachers in Kansas schools while performing student teaching. (Authorized K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-11. Student teacher responsibilities, by whom assigned. Building principals and cooperating teachers to whom the student teachers are assigned, in conference with the appropriate officials of the teacher education institution and in conformity with the terms of the contract, as contemplated in section 6 hereof, shall determine when and to what extent student teachers shall assume responsibilities or enter into teaching activities in the assigned school system. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-12. Supervision of student teachers; menial tasks. Student teachers shall be under the supervision of cooperating teachers and building principals to whom they are assigned, and shall not be expected to perform menial tasks or assume responsibilities not generally assigned to cooperating or other teachers. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-13. Legal liability and responsibility of student teachers. Student teachers, while in the performance of their duties and responsibilities as student teachers, shall be legally liable for their own acts and conduct, and shall be afforded protection under law, to the same extent as their cooperating teachers and other officers and employees of the school district. In the temporary absence of the cooperating teachers from their classrooms and while the assigned student teachers are required to remain therein, the pupils thereof shall be under the direct supervision and disciplinary control of such student teachers. (Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36, July 31, 1970; effective Jan. 1, 1971.)

91-19-14. Form of certificate. The form of the student teaching certificate shall be substantially as follows:

22-110

No. _____

STATE OF KANSAS
STATE BOARD OF EDUCATION

Student Teaching Certificate
(Authorized by L. 1970, Ch.278)

Know All Men by These Presents: That

(Name of Student Teacher)

(Teacher Education Institution)

(City)

_____, an institution recognized by

(State)

the Kansas State Board of Education as an accredited teacher education institution, is authorized to do student teaching in the schools of Kansas, and is hereby issued this student teacher certificate, with all of the rights and privileges thereunto belonging, for the period of time and assignments hereinafter set out, and subject to compliance with the regulations of the Kansas State Board of Education.

Signed, sealed and dated at _____, _____, _____,
(City) (State)

This _____ day of _____, 19 _____.

30

(Signature of Officer)

(Seal)

Assigned District _____
(Name and Number)

School (or Building) _____
Level _____

(Elem, Jr. High, Sr. High, Other)
Grade (or Subject) _____

Effective Date _____ Expiration Date _____
(Authorized by K.S.A. 1970 Supp. 72-1392; effective, E-70-36,
July 31, 1970; effective Jan. 1, 1971.)

Kentucky

Kentucky statute defines student teacher as:

(5) "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

The status of student teachers is covered in the following section:

161.042. Status of Student Teachers. (1) The State Board of Education shall provide through regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the State Board of Education, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a certificated teacher employed within the school district but shall be subject to the direction and supervision of the professional administrative and teaching staff of the school district.

(4) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.^{24/}

A 1963 Attorney General's opinion written by Mr. Ray Corns, Assistant Attorney General, from the Office of Mr. John B. Breckinridge to Mr. Curtis Phipps of Georgetown College is shown in its entirety:

This is in reply to your letter of February 22 requesting the opinion of this office on the following:

May a student teacher take charge legally of a classroom in the absence of the regular teacher?

Student teaching is recognized as a fundamental part of teacher education. Student teaching programs involve generally the cooperative efforts of the teacher-training institution, the supervisor of such institution, the local school district, and the regular teacher under whom the student teacher works.

It is the general rule of law that a school district is entitled to exercise not only those powers and duties expressly conferred by statute, but also those powers and duties which are necessarily implied. See Stateline Consolidated School District No. 6 v. Farewell Independent School District, 48 S.W. 2d 616. See also KRS 160.160 and 160.290.

Hence, in the exercise of a reasonable discretion, a board of education may decide that it is the best interests of the school district to participate in the student teacher-training program.

KRS Chapters 157 and 161 require the employment of competent certified teachers, but there is no express or implied exclusion of an assistant or student teacher. The student teacher cannot be employed by the local board of education, can receive no compensation from said board or exercise any authority in the management or control of the class. While a student teacher is working with the class, the regularly employed certified teacher must remain in a supervisory capacity to see that the recitations are heard and instructions given according to her own judgment and discretion. There can be no delegation of this authority and responsibility.

The student teacher may be devoted in her pursuit of the art of teaching, but she is not a teacher within the meaning of the law, which has undertaken to insure that school children shall be taught only by those who have met, not those seeking to attain, a certain standard of proficiency.

Therefore, it is the opinion of this office that a student teacher may not legally take charge of a classroom in the absence of the regular teacher. If such is done, the local school district would forfeit its right to receive ADA, (average daily attendance), allotments for this unit because KRS Chapter 157 provides that in computing this apportionment there shall be included only the attendance of pupils while engaged in educational activities required of such pupils and under the immediate control and supervision of an employee of the school district who possesses a valid certificate.^{25/}

Louisiana

Louisiana has no state statutes, attorney general's opinions or case laws regarding the legal status of student teaching.

Maine

Maine has no state statutes which pertain to the legal status of student teaching. No court cases or attorney general's opinion exist to date.

Maryland

Until recently, student teachers in Maryland Public Schools were not covered by any law or bylaw of the State Board of Education with regard to duties, responsibilities and liabilities. Two years ago (1974) the Maryland General Assembly enacted the following law: Agreements for student teacher training; selection of supervising teachers; authority of student teachers.^{26/}

The law is as follows:

Art. 77, 116B. Agreements for student teacher training; selection of supervising teachers; authority of student teachers. (a) Any local board of education and the Board of School Commissioners of Baltimore City may enter into cooperative agreements and financial arrangements for the use of the public schools of that county or Baltimore City for the purpose of student teaching or supervised field experience with any teacher training institution.

(b) The college or university and the local board of education or the Board of School Commissioners of Baltimore City, where the student teaching center program is adopted, shall jointly approve or select the supervising teachers, who are employees of that local board, to serve in the program and adopt an agreed, continuing in-service improvement program for the supervising teachers.

(c) During the time the student teacher is assigned as a student teacher, any student teacher shall be given the same authority as if the student teacher were a certificated employee of the school board in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline, to the handling of records of students, and to all other aspects of authority granted to certificated employees of the school boards in the State. (1975, ch. 679.)^{27/}

Massachusetts

Massachusetts has no laws or court decisions in regard to student teachers.

Michigan

Michigan does not have any state statutes, case laws or attorney general's opinions regarding the legal status of student teaching. According to the Michigan Department of Education student teachers have the same legal status as regular teachers.

^{26/} Based on personal correspondence between Quentin L. Ernhart, Deputy State Superintendent and the writer, April 30, 1976.

^{27/} Annotated Code of Maryland, 1975 Edition.

The state operates under an administrative rule R390.1105

(3) A student enrolled for student teaching or internship credit at an approved teacher education institution need not hold a teaching certificate but shall be certified by such teacher education institution to the state board as enrolled for student teaching. The certificate shall include the initial and final dates of the assignment and the name of the school to which the student is assigned. Upon filing such certificate with the state board, persons assigned school duties by a board of education shall be considered as lawfully exercising such duties.28/

Minnesota

Student teaching is authorized under Minnesota Law by Sec. 123.35 SU6d. 13 which is as follows:

The board may by agreements with teacher preparing institutions arrange for classroom experience in the district for practice or student teachers who have completed not less than two years of an approved teacher education program. Such practice teachers shall be provided with appropriate supervision by a fully qualified teacher under rules promulgated by the board and shall be deemed employees of the school district in which they are rendering services for purposes of workmen's compensation; liability insurance, if provided for other district employees in accordance with section 123.41; and legal counsel in accordance with the provisions of section 127.03.29/

An informal opinion by J. Dennis O'Brien, Special Assistant Attorney General, issued October 11, 1968 in reference to a question put forth by Farley D. Bright, Assistant Commissioner, Department of Education is shown in its entirety.

You wish to know whether the State Board of Education has authority to issue certificates to student teachers. M.S. (1967) 125.05 provides in part,

"The authority to certify teachers is vested in the State Board. Certificates shall be issued to such persons as the State Board finds to be physically competent and morally fit to teach. Qualification of teachers and other professional employees shall be determined by the State Board under the rules which it promulgates. . . ."

The above quoted statute allows the State Board to determine the qualification of teachers for the purpose of issuing certificates to such teachers. The word teacher is defined in M.S. (1967) 125.03(1);

28/ Michigan Department of Education, Administrative Rules Governing the Certification of Michigan Teachers, p. 2.

29/Minnesota Statutes Annotated.

"The term "teachers" for the purpose of certification means and includes any and all persons employed in a public school as members of the instructional . . . staff. . . ."

In order for the State Board to issue certificates to student teachers, such teachers must be employed in the public schools, and be members of the instructional staff, and also meet the qualifications set forth in M.S. (1967) 125.05. Whether student teachers meet these qualifications is a fact determination which the Department must make. If you determine that student teachers are employed in the public schools and are members of the instructional staff, and otherwise qualify under the provisions of M.S. (1967) 125.05, then the State Board would have authority to certify such teachers.

You also wish to know whether the Commission can charge a lesser fee for a student teacher certificate. M.S. (1967) 125.08 which establishes the certification fee provides in part,

"Each application for the issuance, renewal, or extension of a certificate to teach school be accompanied by a non-refundable fee of \$5.00."

This statute is mandatory and does not give the Commission discretion to charge a lesser fee. I have also drafted a suggested phrasing for Edu. 349 in the event you make an affirmative factual determination.

Edu 349. Student (Practice) Teacher (Permissive). A student teacher is a person attending a teacher preparation institution preparing for eventual service in the teaching profession. A one-year, non-renewable certificate for elementary and secondary student teachers may be issued to an applicant who is recommended by a teacher preparation institution approved by the State Board of Education and who has not less than three years of teacher preparation. Such certificate shall be issued only upon the request of a teacher preparation institution and shall only entitle the holder thereof to practice teach under the general supervision of a fully certificated teacher. A student teacher shall not replace a certificated teacher. The certificate of a student teacher may be revoked by the department for cause.
Effective date September 1, 1970.

NOTE: A student teacher shall not be included in the provisions of M.S.A. 125.07 Duration and Renewal of Certificates, and M.S.A. 125.12 Employment, Contracts, Termination.

An opinion by Mr. Douglas M. Head, Attorney General, and Mr. Douglas L. Sko, Special Assistant Attorney General, dated October 27, 1969, Number 1616-4 in reference to a question by Mr. W. B. Dosland, Attorney for Independent School District No. 147 is as follows:

In your letter to Attorney General Douglas M. Head requestion an opinion you present the following

facts

Independent School District #147, Dilworth, Minnesota, has a contract with Moorhead State College, whereby the college sends a number of students majoring in education to the Dilworth School District to teach classes under

the supervision of permanent staff teachers. Moorhead State College then remits to the school district a sum of money as compensation for the supervisory functions performed by the district's teachers. The teachers are compensated for their normal teaching functions in conformance with a schedule which has been created by negotiation prior to the commencement of the school year.

Based upon the above facts you submit these

Questions

1. May the school district distribute any portion of the funds received from Moorhead State College under this practice teachers program to the supervising teachers, even though the teachers would be receiving compensation in excess of that provided for in the salary schedule of the school district?
2. Are the funds received from Moorhead State College "public funds" when deposited by the school district in its general fund and subject to the normal restrictions on the expenditure of public funds?
3. May the school district distribute any portion of these funds received from Moorhead State College to the local Education Association, which renders no service in the Supervision of the practice teachers?

Opinion

1. The answer to your first question is dictated by Minn. Stat. 1967, Section 125.12, Subd. 2, which provides in part:
"School boards shall hire or dismiss teachers at duly called meetings. . . . The employment shall be by written contract signed by the teacher and by the chairman and clerk. . . .
Such contract shall specify the wages per year and the general assignment of the teacher." (Emphasis added.)

The school board may choose to compensate a teacher for the supervisory services which he provides for the practice teachers program. It is required, however, that both the general assignment and the total compensation therefor be specified in the teacher's contract. The contract must be such that the teacher's wages can be determined with absolute certainty from the contract itself. Op. Atty. Gen., 161b-4, September 12, 1967.

We assume from your statement of the facts that no reference is made to the additional compensation for practice teacher supervisory services in the contracts which your teachers have signed, or in the salary schedule which the contracts may incorporate. On that basis we answer your first question in the negative.

2. School districts are organized solely for public purposes; they are "public corporations clothes with governmental power to perform the public duty of providing public schools." Muehring v. School District No. 31, 224 Minn. 432, 435, 28 N.W. 2d 655 (1947). "Boards of education. . . exercise a purely public function and agency for the public good." Bank v. Brainerd School District, 49 Minn. 106, 109, 51 N.W. 814 (1892). It necessarily follows that any funds received by a school district are held and expended only on behalf of the public and for the public good. We answer your second question in the affirmative.

3. Since the local education association renders no service in the practice teacher program, any payments to it by the school district would not be in the nature of compensation or reimbursement. You specify no other educational purposes to be achieved by this use of school district funds.

It can only be concluded that the payments would constitute a gratuity. Such an expenditure is unauthorized and lawful. 1914 Op. Atty. Gen., No. 145 (July 15, 1914); Op. Atty. Gen., 161b-10, April 15, 1940. We answer your third question in the negative.

Mississippi

Mississippi statute define the term student teacher. They also clarify the responsibilities of the cooperating teacher and define the duties and powers of the student teacher.

The statutes are as follows:

37-132-1. Definitions. As used in this chapter, "student teacher" or "intern" shall mean a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Whenever in this chapter "board of education" is referred to and the school that a student teacher or intern is assigned to does not have a board of education, such term shall refer to the person or governing body that administers such school.

Sources: Laws, 1973, ch. 343, 1(a), eff from and after passage (approved March 22, 1973).

37-132-3. Responsibility of cooperating teacher. It shall be the responsibility of a cooperating teacher, in conjunction with the principal or other administrator and the representative of the teacher preparation institution, to assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching. Student teaching may include duties granted to a certificated teacher under the rules and regulations of such board of education and any other part of the school program for which either the cooperating teacher or the principal is responsible.

Sources: Laws, 1973, ch. 343, 1(b), eff from and after passage (approved March 22, 1973).

37-132-5. Powers and duties of student teacher. A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator, and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers.

Sources: Laws, 1973, ch. 343, 1(c), eff from and after passage (approved March 22, 1973).30/

Missouri

Missouri issues student teacher certificates under the authority of state statute 168.021(1).

It is as follows:

168.021. Issuance of teachers' licenses. - 1. Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board of education, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(c) To each student completing in a satisfactory manner at least a two-year course in a city training school as provided for in section 178.410, RSMo.

(2) By the Missouri state colleges and state universities, state teachers' colleges, the university of Missouri and Lincoln university to graduates receiving the degree of bachelor of science in education, a life teaching certificate bearing the signature of the commissioner of education and which shall be registered in the state department of education.

2. Any teacher holding a third class county certificate in the state during the 1972-73 school year shall upon his written request be given an examination by a person designated by the state commissioner of education to determine his eligibility to be granted a certificate of license to teach. The examination shall be comparable to those given by county superintendents to eligible applicants prior to July 1, 1974. Upon successful completion of the examination the applicant shall be issued a certificate by the state board of education entitling the holder to teach in the public schools of the state for a period of one year. A request for such examination must be presented to the commissioner of education on or before March first of the year in which the examination is to be administered. The commissioner of education shall cause the examination to be administered and the certificate issued to those successfully completing it prior to April first of the year in which the application for the examination was received.^{31/}

A somewhat related, attorney general's opinion said:

There is nothing in the Missouri Constitution or statutes or the United States Constitution prohibiting the placing of student teachers in parochial or private schools as part of the student teaching programs at Northeast Missouri State College.^{32/}

A related statute dealing with teaching without a license is as follows:

168.081. Teaching without license, penalty--liability of directors.--
Any teacher who enters a public school in this state to teach, govern and

^{31/} Revised Statutes of Missouri, 1969.

^{32/} Attorney General's Opinion No. 56, 2-4-70.

discipline the school who does not have a valid certificate of license entitling him to teach therein or who has not been legally employed by the school board of the district to teach therein, forfeits all right, title and claim to any compensation therefor, and is guilty of a misdemeanor and punishable by a fine not to exceed one hundred dollars. Any director who indorses or encourages the teacher in such unlawful conduct is guilty of a misdemeanor and punishable by a like fine.^{33/}

The Commissioner, Arthur L. Mallory, sees no need at this time for further legislation since certified students would seemingly be defined as teachers under the Missouri law and therefore protected under the states save harmless laws.^{34/}

Montana

Student teachers are given the same legal status as certified teachers while engaged in practice teaching.

The Montana statute from the School Laws of Montana Section 75-6001 is as follows:

75-6001. System of teacher certification--student exception. In order to establish a uniform system of quality education and to ensure the maintenance of professional standards, a system of teacher certification shall be established and maintained under the provisions of this title and no person shall be permitted to teach in the public schools of the state until he has obtained a teacher certificate or the district has obtained an emergency authorization of employment from the state.

The above certification requirements shall not apply to a student teacher who is hereby defined as a student enrolled in an institution of higher learning approved by the board of regents of higher education for teacher training and who is jointly assigned by such institution of higher learning and the governing board of a district or a public institution to perform practice teaching in a nonsalaried status under the direction of a regularly employed and certificated teacher.

A student teacher, while serving such nonsalaried internship under the supervision of a certificated teacher, shall be accorded the same protection of the laws as that accorded a certificated teacher, and shall, while acting as such student teacher, comply with all rules and regulations of the governing board of the district or public institution and the applicable provisions of section 75-6108 relating to the duties of teachers.

History: Ecn. 75-6001 by Sec. 71, Ch. 5,
L. 1971; and Sec. 1, Ch. 396, L. 1973.

Amendments

The 1973 amendment added the second and third paragraphs.

^{33/} RSM, 1969

^{34/} Based on correspondence between Arthur L. Mallory, Commissioner of Elementary and Secondary Education and Dr. Earl Hoffmann, Northern Illinois University.

Nebraska

Nebraska has statutes that define the student teacher and establish the legal status. The legal status of student teacher is the same as certified teacher.

The statutes are as follows:

Sec. 79-1297. Student Teacher or Intern; Defined - As used in sections 79-1297 to 79-12,100, student teacher or intern shall mean a student enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a board of education to student-teach or intern under the direction of a regularly employed certificated teacher, principal, or other administrator. Student teaching may include duties granted to a certificated teacher under the rules and regulations of such board of education and any other part of the school program for which either the cooperating teacher or the principal is responsible. (Laws 1971.)

Sec. 79-1298. Student Teacher or Intern; Protection; Rules and Regulations - A student teacher or intern under the supervision of a certificated teacher, principal, or other administrator shall have the protection of the laws accorded the certificated teacher, principal, or other administrator and shall, while acting as such student teacher or intern, comply with all rules and regulations of the local board of education and observe all duties assigned certificated teachers. (Laws 1971.)

Sec. 79-1299. Student Teacher or Intern; Responsibilities; Duties - It shall be the responsibility of a cooperating teacher in cooperation with the principal or other administrator and the representative of the teacher preparation institution, to assign to the student teacher or intern responsibilities and duties that will provide adequate preparation for teaching. (Laws 1971.)

Sec. 79-12,100. Student Teacher or Intern; Terms Defined - Whenever in sections 79-1297 to 79-12,100 board of education is referred to and the school that a student teacher or intern is referred to does not have a board of education, such term shall be the person or governing body that administers such school. (Laws 1971.)^{35/}

Nevada

Nevada statutes do not address student teaching except to provide minimum insurance under the Nevada Industrial Commission. This coverage is the same as that allowed public school students working on traffic safety patrol.

All agreements relative to student teaching are left to the University and the individual school district.^{36/}

New Hampshire

The state of New Hampshire has no state statutes, court cases or Attorney General's opinion reflecting the legal status of student teaching. Student teaching operates under the powers of the State Board of Education to approve teacher education programs for certification purposes.

New Jersey

New Jersey has defined the legal statutes of student teachers by the following:

18A:16-6. Indemnity of Officers and Employees Against Civil Actions - Whenever any civil action has been or shall be brought against any person holding any office, position or employment under the jurisdiction of any board of education, including any student teacher, for any act or omission arising out of and in the course of the performance of the duties as such office, position, employment or student teaching, the board shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; and said board may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.^{37/}

New Mexico

According to the Assistant Attorney General, John A. Templeman, "The legal status of student teachers has not been defined in New Mexico by statute, regulation or case law." "The statute requiring teacher certification specifically exempts practice student teachers."^{38/}

^{36/} Based on personal correspondence between Robert L. Lloyd, Executive Assistant, Office of the Superintendent of Public Instruction, and the writer, April 21, 1976.

^{37/} New Jersey Statutes

^{38/} Based on personal correspondence with the writer, May 4, 1976.

The statute is as follows:

77-8-1.2. Certificate Requirement-Types of Certificates-Forfeiture of Claim-Exception.-A. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency and any person administering in a public school shall hold a valid certificate authorizing the person to perform that function.

B. All certificates issued by the state board shall be standard certificates except that the state board may issue substandard and substitute certificates under certain circumstances. If a local school board or the governing authority of a state agency certifies to the state board that an emergency exists in the hiring of a qualified person, the state board may issue a substandard certificate to a person not meeting the requirements for a standard certificate. The state board may also issue a substitute certificate to a person not meeting the requirements for a standard certificate to enable the person to perform the functions of a substitute teacher pursuant to the regulations of the state board. All substandard and substitute certificates issued shall be effective for only one (1) school year. No person under the age of eighteen (18) years shall hold a valid certificate, whether a standard, substandard or substitute.

C. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency and any person administering in a public school without a valid certificate after the first three (3) months of the school year shall thereafter forfeit all claim to compensation for services rendered.

D. This section shall not apply to a person performing the functions of a practice teacher as defined in the regulations of the state board.^{39/}
History: C. 1953, 77-8-1.2 enacted by
Laws 1975, ch. 306, 3.

The State Board of Education has defined student/practice teachers by Regulations No. 72-2 as follows:

Definition of Student Practice Teachers - Student teachers/practice teachers are defined as: An advanced teacher education student enrolled in an institution of higher learning approved by the State Board of Education for teacher training who is jointly assigned by such institution and a local board of education to a classroom staffed by a fully certified teacher for the purpose of providing the student/practice teacher with pre-employment apprenticeship experience. ^{40/}

^{39/} New Mexico Statutes, Annotated.

^{40/} Department of Education, Adopted February 2, 1972.

New York

According to William E. Boyd, Chief of the Bureau of Teacher Education "Section 207 of Education Law gives statutory authority for Regulations of the Commissioner of Education (which are enacted by the Regents) to establish certification requirements for public school service."^{41/}

Student teachers are permitted to engage in clinical experiences by the following section:

3001 - Qualifications of Teachers - No person shall be employed or authorized to teach in the public schools of the state who is:

1. Under the age of eighteen years.
2. Not in possession of a teacher's certificate issued under the authority of this chapter or a diploma issued on the completion of a course in a state college for teachers or state teachers college of this state.

The provisions of this subdivision shall not prohibit a certified teacher from permitting a practice or cadet teacher enrolled in an approved teacher education program from teaching a class without the presence of the certified teacher in the classroom provided the classroom certified teacher is available at all times and retains supervision of the practice or cadet teacher. The number of certified teachers shall not be diminished by reason of the presence of cadet teachers.^{42/}

Section 3023 saves harmless all teachers including student teachers. It is as follows:

3023 - Liability of a board of education, trustee, trustees or board of cooperative educational services - Notwithstanding any inconsistent provision of law, general, special or local, or the limitation contained in the provisions of any city charter, it shall be the duty of each board of education, trustee or trustees, in any school district having a population of less than one million, and each board of cooperative educational services established pursuant to section nineteen hundred fifty-eight of this chapter, to save harmless and protect all teachers, practice or cadet teachers, and members of supervisory and administrative staff or employees from financial loss arising out of any claim, demand, suit or judgment by reason of alleged negligence or other act resulting in accidental bodily injury to any person, or accidental damage to the property of any person within or without the school building, provided such teacher, practice or cadet teacher, or member of the supervisory or administrative staff or employee at the time of the accident or injury was acting in the discharge of his duties within the scope of his employment and/or under the direction of said board of education, trustee, trustees or board of cooperative educational services; and said board of education, trustee, trustees or board of cooperative educational services may arrange for and maintain appropriate insurance with any insurance company created by or under the laws of this state, or in any insurance company authorized by law to transact business in this state, or such board, trustee,

43

^{41/} Based on personal correspondence between William E. Boyd and the writer, April 29, 1976.

^{42/} Education Law (New York) (See also Feingold v. Lynch, 299 N.Y.S. 2d 606)

trustees or board of cooperative educational services may elect to act as self-insurers to maintain the aforesaid protection. A board of education, trustee, board of trustees, or board of cooperative educational services, however, shall not be subject to the duty imposed by this section, unless such teacher, practice or cadet teacher, or member of the supervisory and administrative staff or employee shall, within ten days of the time he is served with any summons, complaint, process, notice, demand or pleading, deliver the original or a copy of the same to such board of education, trustee, board of trustees, or board of cooperative educational services.^{43/}

In a case involving a student teacher, the court ruled against the state of New York as the student teacher was negligent in failing to provide adequate instructions before a student attempted a "head stand."^{44/}

No attorney general's opinions were found speaking to the legal status in New York.

North Carolina

North Carolina statute defines the terms student teacher and student teaching. Under the statute the student teacher is given lawful authority when responsible for some part of the school program and is provided equal protection accorded the certified teacher.

The statute is as follows:

"18B. Student Teachers"

"Sec. 115-160.5. Student Teacher and Student Teaching Defined. A student teacher is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a county or city board of education to student-teach under the direction and supervision of a regularly employed certified teacher.

Student teaching may include those duties granted to a teacher by G.S. 115-146 and any other part of the school program for which either the supervising teacher or the principal is responsible.

"Sec. 115-160.6. Legal Protection. A student teacher under the supervision of a certified teacher or principal shall have the protection of the laws accorded the certified teacher.

"Sec. 115-160.7. Assignment of Duties. It shall be the responsibility of a supervising teacher, in cooperation with the principal and the representative of the teacher preparation institution, to assign to the student's teacher responsibilities and duties that will provide adequate preparation for teaching.

^{43/} Education Law

^{44/} Gardner v. State (1939) 281 N Y 212, 22 NE 2d 344.

"Sec. 2. G. S. 115-146 is hereby amended by inserting in line 2 immediately following the word "teachers" the following:

"including student teachers when given authority over some part of the school program by the principal or supervising teacher,"

"Sec. 3. G. S. 115-146 is hereby amended by rewriting the first sentence of the second paragraph as follows:

"Principals, teachers, and student teachers in the public schools of this State may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order."

"Sec. 4. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

"Sec. 5. This Act shall be in full force and effect upon its ratification. (NOTE: The above act was ratified on May 28, 1969.)^{45/}

In 1973 a federal district court ruled that student teachers must be provided due process in dismissal proceedings against them. Furthermore, the court ruled that student teachers have full legal protection under the laws as provided regular certified teachers.^{46/}

North Dakota

According to the statutes of North Dakota student teachers have the same legal authority as a certified employee while engaged in student teaching.

The statutes are as follows:

15-47-40. Cooperative agreements for student teaching and supervised field experiences - The school board of any public school district is hereby authorized to enter into cooperative agreements and financial arrangements for the use of the public schools of the school district for student teaching or supervised field experience with any teacher training institution. Any such agreement may provide for the payment by the institution for the services rendered by the school district of an amount not to exceed the actual cost to the school district for the services rendered by the school district and its employees.

Source: S. L. 1969, ch. 180, 1.

15-47-41. Payment of cost from public funds - The Board of higher education is hereby authorized to pay for the services of any public or private school or of any public or private school administrators, teachers, or employees of an amount not to exceed the actual cost of their services in training student teachers. The amount may be paid either directly to the

^{45/} Department of Public Instruction, Professional Laboratory Experiences in Teacher Education, p. 19.

^{46/} Moore v. Gaston County Board of Education, 375 F. Supp. 1037.

school employee or to the school district as determined by the agreement with the school district or private school. Be it further provided that nothing herein shall authorize the school district to pay a student teacher for services rendered.

15-47-42. Status and authority of student teachers - Any student teacher, during the time such student teacher is assigned as a student teacher, shall be given the same legal authority and status as if the student teacher were a certificated employee of the school district in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline, in the handling of confidential records of students, and in all other aspects of legal authority granted to certificated employees of the school district in the state. The student teacher shall be deemed a certificated employee of the district with respect to acts performed by him at the direction, suggestion, or consent of the certificated employees under whose supervision and control the holder performs his duties, whether or not such duties are performed entirely in the presence of the employees of the district assigned to supervise the holder, and shall be deemed an employee of the school district within the meaning of section 39-01-08 and 40-43-07 relating to liability insurance carried by political subdivisions.^{47/}

Ohio

Ohio has no statutes that speak directly to the legal status of student teachers. No attorney general's opinion or case law specifically mentions student teachers.

Oklahoma

School Laws of Oklahoma, Article 1, Section 16, Item 5 gives the legal status of the student teacher:

Student Teacher: A student teacher is any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving a nonsalaried internship under the supervision of a certified teacher, shall be accorded the same protection of the laws as that accorded the certified teacher.

According to the Guidelines for Student Teaching in Oklahoma:

The legal structure under which student teaching is accomplished in Oklahoma is permissive rather than directive, since neither the Constitution

^{47/} North Dakota State Law.

nor the Oklahoma Statutes provide for the establishment or support of the student teaching function.^{48/}

According to Mr. Ronald Carpenter, Administrator, Teacher Education Section for the State Department of Education, Oklahoma needs more direction in this area.^{49/}

Oregon

Oregon student teachers are protected under the laws of Oregon. The only statute speaking directly to this is:

342.980 - Student teacher; authority to teach; contract requirements and effect. Any student of a teacher education insitution approved by the Teacher Standards and Practices Commission, who is assigned to teach in a training school has full authority to teach during the time the student is so assigned, and such assignment has the same effect as if the student were the holder of a valid teaching certificate. (Formerly 342.575; 1967 c.67 s. 15; 1973 c.270 s.17)^{50/}

Pennsylvania

The Commonwealth of Pennsylvania has no statutes, Attorney General's opinions, or case laws which speak to the issue of the legal status of student teaching.

An examaination of the Regulations of the State Board of Education of Pennsylvania yields the following information:

"The institution shall present evidence of a comprehensive planned sequence of professional laboratory experiences with pupils of the appropriate age groups and distinctive groups of children when applicable to culminate in a full-time student teaching or intern assignment."^{51/}

^{48/} Oklahoma State Department of Education, Guidelines for Student Teaching in Oklahoma, p. 9.

^{49/} Based on personal correspondence with the writer, May 26, 1976.

^{50/} Oregon Revised Statutes

^{51/} Based on personal correspondence between William D. Kautz, Chief, Division of Teacher Education, Bureau of Academic Programs (Referring to Guidelines, Roles and Procedures for Improving the Student Teaching Field Experiences in Pennsylvania, PDE, 1969) and the writer, May 11, 1976.

Rhode Island

Student teacher certificates are issued in all areas for which regular certificates are granted. They are valid for a period of six months and are issued at the request of colleges or universities having an approved teacher education program. The student teacher certificate entitles a student to engage in laboratory, intern, or practice teaching experience in the public schools of the state while under the supervision of qualified college and school department supervisors.^{52/}

Mack and Norwood reported that Rhode Island required student teachers "to hold a teaching certificate prior to entering their clinical experience."^{53/} They fail to note that it refers to student teaching certificates, clearly valid only for a limited period of time.

South Carolina

South Carolina has no state statutes, attorney general's opinions or case law which speak to the legal status of student teaching.

South Dakota

The only statute applicable to the legal status of student teachers is SDCL 13-53-8. It is as follows:

13-53-8 - Contract with school board for educational services - The board of regents and any school board of this state shall have the power to enter into a contract or contracts, for such consideration as may be agreed upon, whereby any state educational institution under the control of the board of regents, having a department for the practice and training of teachers may contract for educational services for children in the district.^{54/}

^{52/} Based on personal correspondence between Patrick F. McCarthy, Coordinator of Regulatory Functions, and the writer, April 27, 1976.

^{53/} Mack and Norwood, p. 1.

^{54/} South Dakota Code of Law.

Tennessee

The state of Tennessee gives the same legal status to student teachers as it does to certified teachers. Tennessee Code, Annotated, Section 49-1301 is as follows:

49-1301. Certificates required-Exception as to student teacher -
No person shall be employed to teach in any public elementary or high school or receive pay for teaching out of the public funds of any school system until he shall have received a certificate from the commissioner or state board of education, as prescribed by this title.

This provision shall not apply to a student teacher who is hereby defined as a student enrolled in an institution of higher learning approved by the state board of education for teacher training and who is jointly assigned by such institution of higher learning and the local board of education to perform practice teaching under the direction of a regularly employed and certificated teacher. A student teacher, while serving a nonsalaried internship under the supervision of a certificated teacher, shall be accorded the same protection of the laws as that accorded a certificated teacher, and shall, while acting as such student teacher, comply with all rules and regulations of such board of education and observe all duties of teachers as set forth in 49-1307. (Acts 1925, ch. 115, 8; Shan. Supp., 1487a47; Code 1932, 2336; impl. am. Acts 1951, ch. 58, 7; Acts 1969, ch. 73, 1; 1974 (Adj. S.), ch. 654, 60, 61.)

Texas

Texas does not have a statute, an attorney general's opinion nor case law which defines the legal status of student teachers. In 1969 the 61st legislature passed Senate Bill 8 which provides funds for the student teaching program.

Senate Bill No. 8:

An Act providing for the implementation of a program of student teaching; providing for administration of program; financing of program; an effective date; a severability clause; and an emergency clause.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. To provide college students, facilities, and supervision for student teaching experience required by laws as a prerequisite to the issuance of a valid Texas Teaching Certificate, it is necessary that joint responsibility among the colleges or universities approved for teacher education by the State Board of Education of this state, the Texas Public School districts, and the State of Texas be hereby established.

Section 2. The Central Education Agency, with the assistance of colleges, universities, and public school personnel, shall establish standards for approval of public school districts to serve as Student Teacher Centers, and define the cooperative relationship between the college or university and the public school which serves the student teaching program.

Section 3. The approved public school district serving as a Student Teacher Center and the college or university using its facilities shall jointly approve or select the supervising teachers, employees of the district, to serve in the program and adopt an agreed continuing in service improvement program for said supervising teachers.

Section 4. There shall be paid to the public school district serving as a Student Teacher Center the sum of Two Hundred Dollars (\$200) for each supervising teacher, to be an additional increment for such additional services to the annual salary of each such supervising teacher. In addition there shall be paid to the district the sum of Fifty Dollars (\$50) per each supervising teacher usable to assist in meeting the costs incurred in providing facilities for student teaching. This total, Two Hundred Fifty Dollars (\$250) per supervising teacher, shall be paid from the Minimum Foundation Program Fund; this cost shall be considered by the Foundation School Fund Budget Committee in estimating the funds needed for Foundation School Program purposes. The total number of supervising teachers to receive the additional increment herein provided shall never exceed seventy percent (70%) of the total number of student teachers enrolled in the practice teaching program.

Utah

Utah legislation concerning student teachers is as follows:

53-2-15. The state board of education is hereby authorized and empowered to issue professional teachers' certificates and diplomas of high school, junior high school, grammar, primary and kindergarten grade; and also to issue superintendents' certificates and diplomas and supervisors' certificates and diplomas. Such certificates and diplomas shall be valid in any school district of the state in the department of instruction or supervision for which they are issued.

The state board of education is also authorized and empowered to issue certificates to persons regularly employed by local boards of education in classifications of service in the public school system other than those specified in the preceding paragraph and to issue certificates to persons engaged in student teaching. A certificate for student teaching shall be issued only upon recommendation of a teacher training institution in the State of Utah approved and accredited by the state board of education. The certificate shall authorize the holder to teach in a specified school or schools under the general and specific direction of a qualified and regularly certificated person. The certificate shall be valid only for the student teaching period. No person shall perform student teaching without first being a holder of the certificate herein named.

Holders of these certificates are deemed to be certificated employees and shall be covered by liability insurance programs carried by the district in which they teach.55/

The legal status of the student teacher is the same as the regular certified teacher.56/

Vermont

Vermont has no statutory law, case law or attorney general's opinion concerning student teaching.

Virginia

No statutes, case law, or Attorney General's opinion exist regarding student teaching in the Commonwealth of Virginia. In any event, it is the opinion of the State Department of Education that student teachers are clearly not employees of the local boards while engaged in the internship.57/

Washington

The state of Washington has no statutes that speak to the legal status of the student teachers while engaged in clinical experiences.

The use of model schools and practice teaching is authorized under Sec. 28B.40.300:

28B.40.300. Model schools and training departments--Purpose - A model school or schools or training departments may be provided for each state college, in which students, before graduation, may have actual practice in teaching or courses relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs. (1969 ex.s. c 223 28B.40.300. Prior: 1917 c 128 2; 1909 c 93 p 253 8; RRS 4611; prior: 1897 c 118 219; 1893 c 107 12. Formerly RCW 28.81.058; 28.81.050(12).)58/

55/ Utah Code, Annotated

56/ Statement by Vere A. McHenry, Administrator, Division of Instructional Support Services, in a telephone interview May 25, 1976. Permission to quote secured.

57/ Based on personal correspondence between Ryland Dishner, Assistant Superintendent for Professional and Educational Support Services, and the writer, April 19, 1976.

58/ Washington Revised Statutes

State colleges are authorized to engage in preparing students for teaching certificates by the following passage.

28B.10.140 - Teachers', principals' and superintendents' training courses. The University of Washington, Washington State University, Central Washington State, Eastern Washington State College, Western Washington State College and the Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the state board of education are required, for any grade, level, department or position of the public schools of the state, except that the training for superintendents, over and above that required for teaching certificates and principals' credentials, shall be given by the University of Washington and Washington State University only. (1969 ex.s. c 223 28B.10.140. Prior: 1967 c 47 17; 1949 c 34 1; Rem. Supp. 1949 4618-3. Formerly RCW 28.76.120.59/

In 28B.10.140 it is assumed that practice teaching is included in the preparation of becoming a teacher.60/

The financing of teacher training is spoken to in Sec. 28B.10.605 as follows:

28B.10.605. District schools may be used for teacher training by universities and state colleges -- Agreement for financing, organization, etc. The financing and the method of organization and administration of such a training program operated by agreement between a university board of regents or state college board of trustees and the board of directors of any school district shall be determined by agreement between them. (1969 ex.s. c 223 28B.10.605. Prior: 1949 c 182 2; Rem. Supp. 1949 4543-41. Formerly RCW 28.76.360.)61/

These are all of the Washington state statutes that mention student teaching specifically. No specific rules/regulations by the Superintendent of Public Instruction or the State Board of Education address this question. No case law or attorney general's opinions has emerged since the passage of these statutes.

It is the opinion of Frank B. Brouillet, State Superintendent of Public Instruction, that ". . . the certificated classroom teacher maintains responsibility/accountability for learning experiences conducted in his/her classroom."62/ In any event, the student teacher and the certified teacher are both liable if either is negligent in a given situation.63/

59/ W.R.S.

60/ Statement by L.O. Griffith, Consultant for Administrative Services, Office of the Superintendent of Public Instruction, in a telephone interview, May 18, 1976. Permission to quote secured.

61/ W.R.S.

62/ Based on personal correspondence with the writer, April 30, 1976.

63/ Griffith

West Virginia

West Virginia statutes concerning student teaching are as follows:

Article 5. Section 18A-5-1. Student teachers and other school personnel exercise authority by law. The teacher shall stand in place of the parent or guardian in exercising authority over the school, and shall have control of all pupils enrolled in the school from the time they reach school until they have returned to their respective homes. . . the teacher shall exclude from the school any pupil or pupils known to have or suspected of having any infectious disease. . . the teacher shall have authority to suspend any pupil guilty of disorderly, refractory, indecent or immoral conduct.

(1) Pupil shall include any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction. . . Provided, that in the case of adults the pupil-teacher relationship shall terminate when the pupil leaves the school or other place of instruction or activity;

(2) "teacher" shall include principals, regular teachers, substitute teachers, student teachers, teacher aides and other school employees or persons assigned responsibility for directing or supervising instructional programs or board-approved activities.

Teachers shall exercise such other authority and perform such other duties as may be prescribed for them by law or by the rules of the state board of education not inconsistent with the provisions of this chapter.

18-2-6. Training of teachers; accreditation, classification and standardization of schools; standards for degrees and diplomas. The education of teachers in the State shall be under the general direction and control of the state board of education, which shall, through the state superintendent of schools, exercise supervisory control over teacher preparation programs in all institutions of higher education, including student teaching in the public schools, in accordance with standards for program approval stated in writing by the board. To give prospective teachers the teaching experience needed to demonstrate competence, as a prerequisite to licensure, the state board of education may enter into an agreement with county boards of education for the use of the public schools. Such agreement shall recognize student teaching as a joint responsibility of the teacher preparation institution and the cooperating public schools and shall include (1) the minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee adequacy of facilities and program of the public school selected for student teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

Institutions of higher education approved for teacher preparation may cooperate with each other and with one or more county boards of education in the organization and operation of centers to provide selected phases of the teacher preparation program such as student teacher or internship programs, instruction in methodology, seminar programs for college students, first year teachers and supervising teachers.

Such institutions of higher education and participating county boards of education may budget and expend funds for the operation of such centers through payments to the appropriate fiscal office of the county designated by mutual agreement of participating county school boards and higher education institutions to serve as the administering agency of the center.

The provisions of this section shall not be construed to require the discontinuation of an existing student teacher training center or school which meets the standards of the state board of education.

The state board of education shall make rules and regulations for the accreditation, classification and standardization of all schools in the State, except institutions of higher education, and shall determine the minimum standards for the granting of diplomas and other certificates of proficiency, except those conferred or granted by institutions of higher education. No institution of less than collegiate or university status may grant any diploma or other certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board of education. All institutions of higher education approved for teacher preparation in the school year of nineteen hundred sixty-two--sixty-three shall continue to hold that distinction so long as they measure up to the minimum standards for teacher preparation. Nothing contained herein shall infringe upon the rights granted to any institution by charter given according to law previous to the adoption of this Code.

No charter or other instrument containing the right to issue diplomas or other certificates of proficiency shall be granted by the State of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the State until the condition of granting or issuing such diplomas or other certificates of proficiency has first been approved in writing by the state board of education. (1919, c. 2, 8; Code 1923, c. 45, 8; 1963, c. 44; 1969, c. 129.)^{64/}

The landmark case concerning student teachers for the state of West Virginia is James v. West Virginia Board of Regents.^{65/}

Sections 18A-2-8 and 18A-3-1 apply analogously -- The statutory requirements of 18A-2-8 and 18A-3-1 applying to regular and substitute teachers should be applied analogously to a student teacher under this section.

The character of a potential teacher of school children of immature years is a proper concern of those charged with the responsibility of educating the young, and it is likewise a proper concern of the courts in determining whether or not school officials properly perform this function. The traditional manner of performing this function is by ascertaining the general opinion of the community concerning the general reputation of the party in question. This, of course, comprehends the receipt of hearsay. In carrying out this responsibility, the law does require that school officials follow customary procedures and apply uniform guidelines and standards in a reasonable and nondiscriminatory manner.

^{64/} West Virginia Code

^{65/} James v. West Virginia Board of Regents, 322 F. Supp. 217 (S.D.W. Va. 1971)

Since it may fairly be presumed that the end objective of one majoring in education and seeking a position as a practice teacher is to become employed as a teacher, the character credentials expected to be possessed by teachers should be relevant to those applying for student teaching positions. . .

The State has a legitimate interest in the quality, integrity and efficiency of its public schools in furtherance of which it is not only the responsibility but also the duty of school administrators to screen those who would be entering the teaching profession to see that they meet this standard. In doing this, any conflict arising between the two will be balanced, with the interests of the State serving as the guiding principle. . .

Admittance of students to do practice teaching in any particular county school system is determined by the joint decision of the county board and the college or university, with the approval of the principal of the school where the practice teaching is to take place. . .

There is no language in this section imposing upon the college or university any absolute duty to place any student in any particular county school system or requiring any county school board to accept for practice teaching any particular student or any specified number of students. The extent of the former's duty would appear to be limited to making a good faith effort to place those of its students majoring in education in an accredited school where they might do their practice teaching and thereby qualify for a degree in that field. The extent of the latter's duty would seem to require only that it not arbitrarily or capriciously refuse to accept any such students without just cause or reason. Accordingly, a practice teacher is subject to summary rejection with or without cause, so long as it is not in retribution for an exercise by him of some constitutionally protected right.

Discretionary privilege of practice teacher - There is no basis in this section to sustain a contention that the board is required, as a matter of law, to provide a practice teacher a school in which to do practice teaching. However, a practice teacher does have a discretionary privilege to be placed in an accredited school for such purpose; that is to say, he does have the right to expect and to receive at the hands of the officials of a county school board the same consideration with respect to his application for practice teaching in the schools of that county as is customarily given to other applications for that position. This is a fundamental right, the protection of which is guaranteed by the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States.

In addition to the statutes and court case West Virginia has the following rules:

Culminating Clinical Experience* (Student Teaching)

A culminating clinical experience is required for all teacher education

students. Its primary purpose is to provide the teacher education student with the opportunity to blend theory into practice under controlled conditions. The clinical experience will consist of a minimum full-time eight week experience in which the student must demonstrate proficiency as a professional educator. A student who is required to complete a culminating experience in more than one specialization or more than one grade level to complete certification requirements will satisfy the minimum requirements in each specialization or grade level by completing a full-time experience for four weeks.

To be admitted to the culminating clinical experience, the applicant must have achieved a "C" average (a) on the total hours attempted, (b) in each specialization, and (c) in professional education.

The specific conditions in the culminating clinical experience for the professional certificate and endorsements are:

Institutions desiring to substitute teaching experience for the culminating clinical experience shall submit these provisions as a part of the approved program.

Early Childhood through Grade 3

Students shall complete an instructional clinical experience in a multi-subject educational program in grades 1-3 and with pupils of nursery-kindergarten age.

Elementary - Grades 1-6

Students shall complete an instructional clinical experience in a multi-subject educational program in an elementary school.

Early Education Endorsement

Students shall complete an instructional clinical experience with pupils of nursery-kindergarten age.

Middle School Endorsement, Grades 4-8

Students shall complete an instructional clinical experience in a middle school in keeping with their anticipated certification.

Grades 7-12

Students shall complete an instructional clinical experience in a junior or senior high school in keeping with their anticipated certification.

Grades K-12

Students shall complete an instructional clinical experience in an academic specialization at two levels: elementary (K-6), secondary (7-9 or 7-12).

Non-Instructional Service, Grades K-12

Students shall complete a non-instructional service clinical experience by working with individuals or groups in a school or clinical setting. When possible, the student shall have educational experiences with public school pupils of different ages; however, the emphasis shall be placed on experience with a wide variety of problems encountered in the service area concerned. Diagnostic and prescriptive approaches are encouraged.

Special Education - Grades K-12 or Grades 7-12

Students shall complete an instructional clinical experience in keeping with their anticipated certification. Students enrolled in a special education program for Grades K-12 should have the opportunity to work with pupils of different ages; however, emphasis shall be given to roles as a self-contained classroom teacher, resource teacher, and itinerant teacher. A student shall complete an instructional clinical experience in each special education specialization for which certification is desired.

Students with a specialization in Physical Education, Grades K-12, Home Economics, Grades 7-12, Art, Grades 7-12 or K-12, Music, Grades K-12, or Industrial Arts/Technology, Grades 7-12 who desire a limited assignment with the mentally retarded shall complete a culminating clinical experience which is restricted to teaching the content area named above to the mentally retarded.

Students with a specialization in Physical Education, Grades K-12, who desire a limited assignment with the physically handicapped shall complete a culminating clinical experience which is restricted to teaching physical education to the physically handicapped.

Students with a secondary specialization, Grades 7-12 or a subject matter specialization for Grades K-12 who desire an assignment in Special Education in Behavioral Disorders, Hearing Impaired or Visually Impaired shall complete a culminating clinical experience limited to teaching the content in their subject specialization(s) named on their certificate or to serving as a resource teacher in the Special Education specialization(s) named above for which they have satisfied requirements.

Students who desire a specialization for teaching the Gifted shall complete a culminating clinical experience as a facilitator of learning, with gifted children, in keeping with the grade level (elementary or secondary) of their anticipated certification.^{66/}

Wisconsin

Wisconsin has no case law or attorney general's opinions concerning student teaching.

^{66/} West Virginia Department of Education, Standards for the Accreditation of Teacher Education Programs in West Virginia; 1974, pp. 275-277.

Wisconsin has an administrative rule which requires a student teacher while being paid by a board of education to hold an intern license. The rule is as follows:

PI 3.01. Permits - A permit is an instrument, limited in time to one year or fraction thereof and to one specific job, given to permit the employment of a person who does not meet the minimum legal requirements for teaching as stated in section 40.43 (3), Wis. Stats. and section PI 3.03 (2), (3), (4), (5) and (6), Wis. Adm. Code. The permit is recognized as a substandard instrument given to an unqualified person.

(1) No permit may be issued to any person for the school year 1964-65 or thereafter who has secured credits for less than 4 semesters of work as prescribed by a college offering an accredited 2 year professional education course.

(2) A permit may be granted only upon the written request of the employing official and/or the county or district administrator.

(a) Such request shall state that a satisfactory qualified person is not available.

(b) A permit shall be limited to a certain position and may not exceed one school year.

(c) All permits shall expire as of June 30 or sooner of the school year for which they are issued.

(d) No permit may be renewed unless there shall be a continued shortage of available satisfactorily recommended qualified teachers, and at least 6 semester hours of credit have been gained during the school year or the summer preceding the school year for which the permit is to be issued. These credits must be acceptable to the college at which the permit teacher is working toward her next diploma or degree.

(e) All permit teachers must have their credits evaluated and a suitable pattern of procedure established by the proper college authority.

(f) The state superintendent may issue or decline to issue permits at his discretion.

(g) A permit to be known as an intern license may be given to a person working in an internship program which is approved by the state superintendent of public instruction. An intern who is paid by a board of education must hold such a license. Such license may be issued only to a student recommended by the proper teacher preparing college or university authorities and must hold senior or graduate ranking. A signed request by the administrator of schools of the participating district must be filed as a condition for the issuance of such license.67/

Wisconsin has no statutes which specifically speak to student teaching. The following statutes might apply.68/

67/ Wisconsin Administrative Code

68/ Based on correspondence and telephone interview between Kathryn Daut, Legal Counsel to the Deputy State Superintendent, and the writer, June 14, 1976 and June 16, 1976.

270.58 - State and political subdivisions thereof to pay judgments taken against officers. (1) Where the defendant in any action or special proceeding is a public officer or employee and is proceeded against as an individual because of acts committed while carrying out his duties as an officer or employee and the jury or the court finds that such defendant was acting within the scope of his employment the judgment as to damages and costs entered against the officer or employee shall be paid by the state or political subdivision of which he is an officer or employee. Regardless of the results of the litigation the governmental unit, when it does not provide legal counsel to the defendant officer or employee, shall pay reasonable attorney's fees and costs of defending the action, unless it is found by the court or jury that the defendant officer or employee did not act within the scope of his employment. Failure by the officer or employee to give notice to his department head of action or special proceeding commenced against him as soon as reasonably possible shall be a bar to recovery by the officer or employee from the state or political subdivision of reasonable attorney's fees and costs of defending the action. Such attorney's fees and expenses shall not be recoverable if the state or political subdivision offers the officer or employee legal counsel and such offer is refused by the defendant officer or employee. Deputy sheriffs in those counties where they serve not at the will of the sheriff but on civil service basis shall be covered by this subsection, except that the provision relating to payment of the judgment shall be discretionary and not mandatory. In such counties the judgment as to damages and costs may be paid by the county if approved by the county board.

(2) Any town officer held personally liable for reimbursement of any public funds paid out in good faith pursuant to the directions of electors at any annual or special town meeting shall be reimbursed by the town for the amount of the judgment for damages and costs entered against him.

895.43 - Tort actions against political corporations, governmental subdivisions or agencies and officers, agents or employees; notice of injury; limitation of damages and suits. (1) No action founded on tort, except as provided in s. 345.05, shall be maintained against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof nor against any officer, official, agent or employee of such corporation, subdivision or agency for acts done in their official capacity or in the course of their agency or employment unless within 120 days after the happening of the event causing the injury or damage or death complained of, written notice of the time, place and circumstances of the injury or damage signed by the party, his agent or attorney is served on such volunteer fire company, political corporation, governmental subdivision or agency and on the officer, official, agent or employee under s. 262.06. Failure to give the requisite notice shall not bar action on the claim if the fire company, corporation, subdivision or agency had actual notice of the damage or injury and the injured party shows to the satisfaction of the court that the delay or failure to give the requisite notice has not been prejudicial to the defendant fire company, corporation, subdivision or agency or to the defendant officer, official, agent or employee.

(2) The amount recoverable by any person for any damages, injuries or death in any action founded on tort against any volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency thereof and against their officers, officials, agents or employees for acts done in their official capacity or in the course of their agency or employment, whether proceeded against jointly or severally, shall not exceed \$25,000. No punitive damages shall be allowed or recoverable in any such action.

(3) No suit shall be brought against any political corporation, governmental subdivision or any agency thereof for the intentional torts of its officers, officials, agents or employees nor shall any suit be brought against such fire company, corporation, subdivision or agency or against its officers, officials, agents or employees for acts done in the exercise of legislative, quasi-legislative, judicial or quasi-judicial functions.

(4) Except as hereinafter provided, the provisions and limitations of this section shall be exclusive and shall apply to all actions in tort against a volunteer fire company organized under ch. 213, political corporation, governmental subdivision or agency or against any officer, official, agent or employee thereof for acts done in an official capacity or the course of his agency or employment. Nothing in this section shall bar an action or impose limitations in any action against any such officer, official, agent or employee individually for intentional torts. When rights or remedies are provided by an other statute against any political corporation, governmental subdivision or agency or any officer, official, agent or employee thereof for injury, damage or death, such statute shall apply and the limitations in sub. (2) shall be inapplicable.^{69/}

In addition Section 66.18 which authorizes school boards to obtain liability insurance coverage for their officers, agents and employees. Kathryn Daut writes that "it would be possible to argue that a student teacher is an agent of the school district. . . "^{70/}

Wyoming

Wyoming statutes that cover student teaching are as follows:

21-509. Title - This article shall be known and may be cited as the "Cooperative Teacher Education Act of 1975". (Laws 1975, ch. 154, 1.)

21-510. Authority to enter into agreements - (a) The board of trustees of each school district is authorized to enter into written, contractual agreements, or arrangements with any college or university for the purpose

^{69/} Wisconsin Statutes

^{70/} Daut, June, 16, 1976.

of providing field experiences in teacher education. Field experiences include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution regardless of the title of his position.

(b) Each agreement or arrangement shall set out the rights and responsibilities of the cooperating school districts, teacher preparation institutions, students and other participation personnel. (Laws 1975, c. 154, 1.)

21-511 - Payment of cost from public funds - (a) The respective governing boards of state colleges and universities are authorized to provide the contracting school district boards of trustees with tuition waivers to be used by the teachers of that district at any college in the state or for any workshop endorsed by the cooperating college or university.

(b) School districts may, by mutual consent of the parties to the agreement, provide compensation to supervisors to students of teaching. (Laws 1975, ch. 154, 1.)

21-512 - Authority and status of students of teaching - (a) A student of teaching, during the time he is assigned to a field experience within a public school, is not deemed to be a public employee of the school district within the meaning of the "Wyoming Education Code of 1969" (21.1-1 to 21.1-289). The duties and responsibilities of the student of teaching shall be determined by mutual agreement between the school district and the authorized representative of the college.

(b) The student of teaching, during his field experience, is however deemed an employee of the school district pursuant to the provisions of the Wyoming Education Code of 1969 (21.1-1 to 21.1-289), for the purpose of workmen's compensation and liability insurance as provided for other district employees. (Laws 1975, ch. 154, 1.)^{71/}
Effective date - Section 2, ch. 154, Laws 1975, makes the act effective July 1, 1975.

The State Department of Education's attorney in 1972 wrote:

It could be argued that the student teacher has been delegated duties of control and supervision over students by his teacher supervisors. Therefore, although the student teacher is not compensated, he still is required to exercise those duties of control or supervision. He should, therefore be liable for his torts.^{72/}

Wyoming has no case law which deals with this subject currently.

^{71/} Wyoming Statutes, 1975 Cum. Supplement.

^{72/} Memorandum, Jerome F. Statkus, Attorney for the State Department, State of Wyoming, to Dr. Dale Lucas, Assistant Superintendent of Public Instruction, July 26, 1972.

Conclusions

As shown in this paper each state is somewhat unique in its views towards the legal status of student teachers. Many states have clear statutes defining the status of student teachers, e.g., North Carolina, Florida, Colorado, Arkansas, West Virginia, Kentucky, Mississippi, Montana, Nebraska, North Dakota, and Wyoming. Other states have neither statutes, attorney general's opinions nor case laws which to follow, e.g., Georgia, Virginia, Louisiana, Maine, Massachusetts, New Hampshire, Vermont, and South Carolina.

California, Missouri and Rhode Island each have a system of student teaching certificates. Each clearly provides legal status for student teachers. However, California may be open to interpretation regarding a specific instance.

Many states do not fall into any of the above categories. Iowa and Minnesota have statutes and Attorney General's opinions providing legal status to the student teacher. In Hawaii the statutes are interpreted to include student teachers. Michigan and Pennsylvania follow rules and regulations set forth by the appropriate education agency. In those states which the legal status is not clearly defined in some manner many interesting questions may be raised. Are student teachers considered to be employees of the Board of Education? What is the tort liability of the student teacher in comparison to the certified teacher? Does the usage of a student teacher constitute proper and adequate supervision of students? Should student teachers have personal liability insurance while engaged in their clinical experience? Exactly what is the authority under which the student teacher regulates pupil conduct? In all of these questions it would seem that without statutes, opinions, or case laws much of this would have to be decided under common law. In many instances the student teacher could conceivably stand in a more vulnerable position than the certified teacher.

In those states which have statutes that define the legal status of student teachers some are open to various degrees of interpretation. A few states have statutes that are interpreted to include student teachers. In some instances a judge could conceivably disagree with the interpretation of the State Department of Education. Therefore, these interpretations may be less than concrete in standing the test of time.

Recommendations

- 1) Each state that has no statutes, attorney general's opinions, or case laws to follow should move toward enacting statutes that provide legal status to student teachers. An examination of other states and their statutes would seem appropriate as a guideline for legislators and professional educators to use in this process.
- 2) Where statutes are interpreted to include student teachers efforts should be made to include them specifically in future legislation.
- 3) Further research should be undertaken to examine the current legal status of underclassmen in pre-student teaching programs.
- 4) Further research should be undertaken to examine the possible requirement of undergraduate school law courses before student teaching.

SELECTED BIBLIOGRAPHY

1. State Codes

Code of Alabama

The School Laws of Arkansas

California Education Code

Colorado Revised Statutes

General Statutes of Connecticut

Delaware Code

Florida Statutes

Illinois School Code

Burns Indiana Statutes Annotated/Code Edition

Code of Iowa

Kansas Statutes Annotated

Kentucky Revised Statutes

Annotated Code of Maryland

Minnesota Statutes Annotated

Mississippi Code

Revised Statutes of Missouri

School Laws of Montana

Nebraska School Laws

New Jersey Statutes

New Mexico Statutes, Annotated

New York Education Law

North Carolina General Statutes

North Dakota State Law

School Laws of Oklahoma

Bibliography

Oregon Revised Statutes

Tennessee Code

Utah Code, Annotated

Washington Revised Statutes

West Virginia Code

Wisconsin Administrative Code

Wisconsin Statutes

Wyoming Statutes, 1975 Cum. Supplement

2. Cases

Bank v. Brainerd School District, 41 N.W. 814 (1892)

Clay v. Independent School District of Cedar Falls, 187, Iowa 89 (1919)

Feingold v. Lynch, 299 N.Y.S. 2d 606

Gardner v. State, 22 N.E. 2d 344 (1939)

James v. West Virginia Board of Regents. 322 f. Supp. 217 (1971)

Moore v. Gaston County Board of Education, 375 f. Supp. 1037 (1973)

Muehring v. School District No. 31, 28 N.W. 2d 655 (1947)

State Compensation Insurance Fund v. Industrial Accident Commission of California, 22 C.C.C. 212 (1957)

Stateline Consolidated School District No. 6 v. Farewell Independent School District, 48 S.W. 2d 616 (1932)

3. Letters and Interviews

Bureau of Teacher Education, State of New York, Correspondence between William E. Boyd, Chief, and the writer, April 29, 1976.

Department of Education, Commonwealth of Pennsylvania, Correspondence between William D. Kautz, Chief, Division of Teacher Education, Bureau of Academic Programs and the writer, May 11, 1976.

Department of Education, State of Alabama, Correspondence between Easkine S. Murray, Assistant State Superintendent and the writer, June 18, 1976.

Bibliography

- Department of Education, State of Georgia, Correspondence between Joe Edwards, Deputy State Superintendent of Schools and the writer, April 20, 1976.
- Department of Education, State of Hawaii, Correspondence between Wimona L. Chang, Staff Specialist and the writer, April 20, 1976.
- Department of Education, State of Rhode Island, Correspondence between Patrick F. McCarthy, Coordinator of Regulatory Functions and the writer, April 27, 1976.
- Department of Public Instruction, State of Wisconsin, Correspondence and Interview between Kathryn Daist, Legal Counsel to Deputy State Superintendent and the writer, June 14 and June 16, 1976.
- Grieser, Kenneth C. . . . telephone interview, May 14, 1976.
- Griffin, Thomas M. . . . telephone interview, June 14, 1976.
- Griffith, L. O. . . . telephone interview, May 25, 1976.
- McHenry, Vere A. . . . telephone interview, May 25, 1976.
- Maryland Department of Education, Correspondence between Quentin Earhart, Deputy State Superintendent and the writer, April 30, 1976.
- Myrskin, Jack telephone interview, May 14, 1976.
- Northern Illinois University, Department of Elementary Education, Correspondence between Dr. Earl Hoffmann, Professor and Arthur L. Mallory, Commissioner of Elementary and Secondary Education, State of Missouri.
- Northern Illinois University, Department of Elementary Education, Correspondence between Dr. Earl Hoffmann, Professor and John A. Templeman, Assistant Attorney General, State of New Mexico, December 30, 1975.
- Office of the Attorney General, State of New Mexico, Correspondence between John A. Templeman, Assistant Attorney General and the writer, May 4, 1976.
- Office of the Superintendent of Public Instruction, State of Nevada, Correspondence between Robert L. Lloyd, Executive Assistant and the writer, April 21, 1976.
- State Department of Education, Commonwealth of Virginia, Correspondence between Ryland Dishner, Assistant Superintendent for Professional and Educational Support Services and the writer, April 19, 1976.

Bibliography

State Department of Education, State of Oklahoma, Correspondence between Ronald Carpenter, Administrator, Teacher Education Section and the writer, May 26, 1976.

State Department of Education, State of Wyoming, Correspondence between Jerome F. Statkus, Attorney for the State Department and Dr. Dale Lucas, Assistant Superintendent of Public Instruction, July 26, 1972.

Superintendent of Public Instruction, State of Washington, Correspondence between Frank B. Brouillet, State Superintendent of Public Instruction and the writer, April 30, 1976.

4. Attorney General's Opinions

Arizona A.G.O. No. 63-27-C, 'R-196.

Delaware A.G.O. Request No. 5-296.

Iowa A.G.O. June 5, 1936, 1974-O.A.E. 6

Kentucky O.A.G. 63 269.

Minnesota informal opinion by J. D. O'Brien. O.A.G. 1616-4.

Missouri O.A.G. No. 56.

5. Publications

Department of Education, State of Alabama Department of Education Rules and Regulations.

Department of Public Instruction, State of Delaware, Certification Rules and Regulations.

Horton, Lowell and Phyllis Horton eds., Teacher Education: Trends, Issues, Innovations. Danville, Illinois: Interstate 1974.

Mack, Michael G. and Elizabeth R. Norwood. The Student Teacher and the Law. U.S., Educational Resources Information Center, ERIC Document ED 102 165, 1973.

Michigan Department of Education. Administrative Rules Governing the Certification of Michigan Teachers.

New Mexico State Board of Education, Regulation No. 72-2.

North Carolina Department of Public Instruction Professional Laboratory Experience in Teacher Education.

Bibliography

Oklahoma State Department of Education, Guidelines for Student Teaching.

Pennsylvania Department of Education, Roles and Procedures for Improving the Student Teaching Field Experiences in Pennsylvania, 1969.

Rose, Carl, Compiler. Providing Legal Status for Student Teachers.
Washington, D. C.: Association of Teacher Education, circa 1974.

State Department of Education, State of Kansas, Kansas Administrative Regulations.

Swalls, Fred. Legal Aspects of Student Teaching. Danville, Illinois:
Interstate, 1966.

West Virginia Department of Education, Standards for the Accreditation of Teacher Education Programs in West Virginia, 1974.

5. Bills

State of Texas, Senate Bill 8, 61st Legislature.